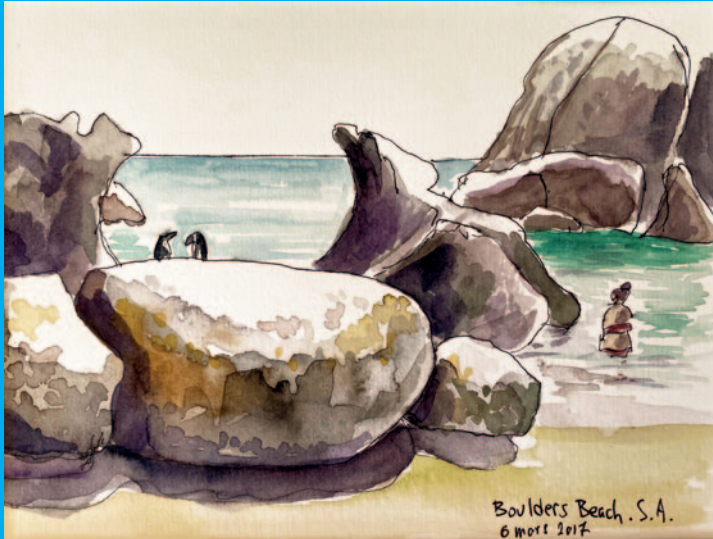


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Cover:

Boulders Beach S.A.

This picture painted by

Sven Berg

(European Patent Attorney, DE)

was part of the **epi Artists**

Exhibition 2018 at the EPO, Munich



Sven Berg

Der familiäre Hintergrund mag einen gewissen Einfluss auf Sven Berg gehabt haben, vor allem weil seine Eltern als auch seine Großeltern mütterlicher und väterlicherseits sehr aktive Künstler waren, die ihr Zuhause mit Ölgemälden, Illustrationen, Büchern und Skulpturen gefüllt haben. Während seines Studiums der angewandten Physik zeichnete Sven Cartoons für die örtliche Studentenzeitung, war aber ansonsten fern von jeder künstlerischen Betätigung außer bei den selbstgemachten Geburtstagskarten, die er an seine Freunde verschickt hat. Erst viel später, als er begann für das EPA zu arbeiten, hat er seine künstlerische Ader wieder entdeckt. Seit 1991 nahm er an den jährlichen Kunstaussstellungen des EPA in München teil. Ihm fehlt zwar eine formale Ausbildung aber durch die tägliche Beobachtung und das Skizzieren, begann die Kunst langsam wieder Gestalt anzunehmen. Seit 2013 ist Sven zurück in Schweden und hat nun endlich einen passenden Platz für ein Studio gefunden, wo er gleichzeitig malen und all seine patentrechtlichen Arbeiten erledigen kann.

The family background may have some influence on Sven Berg, mainly because the parents as well as the grandparents on both sides were active artists, who filled the home with oil paintings, illustrations, books and sculptures. While at the university, with applied physics as path, Sven made cartoons for the local student paper, but otherwise kept away from art, except for the handmade birthday greetings cards that he spread to friends. Only later, as he had begun working for the EPO, he rediscovered the artist side. From 1991 he participated in the annual EPO artist exhibitions in Munich. Formal training in the field is lacking, but with daily observations and sketching, the art has slowly begun to take some shape. Since 2013, Sven is back in Sweden and have now finally found a suitable space for his studio, where he can paint as well as work with the patent related files.

Le contexte familial a pu avoir une certaine influence sur Sven Berg, principalement parce que ses parents et grands-parents étaient des artistes actifs qui ont rempli la maison de peintures à l'huile, d'illustrations, de livres et de sculptures. A l'université, étudiant en physique appliquée, Sven a fait des dessins humoristiques pour le journal étudiant local mais s'est tenu à l'écart des beaux-arts à l'exception de la fabrication de cartes d'anniversaires qu'il envoyait à ses amis. Ce n'est que plus tard, après avoir commencé à travailler à l'OEB, qu'il a redécouvert son côté artistique. Il participe depuis 1991 à l'exhibition artistique annuelle de l'OEB à Munich. Sans formation particulière dans le domaine, mais avec une observation et des croquis journaliers, son art a lentement commencé à prendre forme. De retour en Suède depuis 2013, Sven a trouvé un lieu spacieux pour son atelier, où il peut peindre et travailler également sur des dossiers de brevet.

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Editorial

Field of dreams

"If you build it, he will come"

M. Névant (FR), Editorial Committee

In the movie "Field of Dreams", Ray Kinsella, the character played by Kevin Costner – an Iowa farmer – hears while walking through his cornfield a voice whispering "If you build it, he will come", and sees a vision of a baseball diamond in his field and the great Shoeless Joe Jackson (a baseball player from the early 1900s). Ray figures that if he builds a baseball field, Shoeless Joe (whom his father idolized) will come and play baseball.



Marc Névant

Drawing a parallel with our "little world" leads me to think of that day in December 1975 when the Community convention on the European patent for the common market (aka the "Community patent") was signed. The Fathers of that Convention deeply believed that strong legal foundations were a prerequisite for a patent that would one day be valid

throughout all the member states of the (then) European Community and could be litigated before a single common Court.

The story of the Community patent has been an emotional rollercoaster over years, and the latest developments on the UPC are no different in this respect. Recent news from Germany triggered renewed optimism: the German government has submitted in June a new draft bill to ratify

the UPCA swiftly after the Federal Constitutional Court (FCC) declared void the (previous) ratification. As this editorial is being written, the UK has just notified the secretariat of the European Council that it withdraws its ratification of the Unified Patent Court Agreement (see the announcement from the UPC Preparatory Committee¹). It remains to be seen how the States party to the UPCA will handle the relocation of the Central Division which until then was meant to be in London. Like a never ending story, the next 6 to 12 months will probably be decisive for the fate of the UPC. Some observers indeed predict that another constitutional complaint will be filed with the FCC when the Bundestag has passed the new ratification bill.

On a rather different point, the first ever e-Council meeting was successfully organized on 29th June 2020. On that occasion Council members elected a new Board as well as auditors and members of the Disciplinary Committee. A report on the meeting is included in this issue. On behalf of the Editorial Committee, I sincerely congratulate all those who have been (re)elected and wish them all the best for their term of office.

This issue of **epi** Information is published while some of our readers are on or just return from a holiday break. On behalf of the Editorial Committee I wish all our members well and hope that those who are about to take a break will enjoy it.

¹ <https://www.unified-patent-court.org/news/uk-withdrawal-upca>

Report from the 88th Council Meeting held by videoconference on 29th June 2020 (and from the pre-Council meeting held by videoconference on 18th June 2020)

M. Névant (FR)

Initially scheduled to take place in Glasgow on 11th and 12th May 2020, the 88th Council meeting (C88) was held on 29th June 2020 by video conference.

Traditionally on election years the Council meeting following the election is scheduled for 1 and a half days. This year, however, the meeting was scheduled for one day only because of the Covid-19 pandemic. In view of this extraordinary situation, a pre-meeting was held on 18th June 2020, also by videoconference.

Pre-meeting on 18th June 2020

1/ The purpose of the pre-meeting, which was scheduled for a 2-hour session, was *inter alia*:

- To present the various functions of the videoconferencing system that would be used to hold C88. Mr Gray, the Chair of the Online Communication Committee (OCC), who had extensively tested the system with the support of the Secretariat, in particular explained that “breakout rooms” would be available for national groups for secured discussions during breaks.
- To test the voting tool that would be used during C88.
- To give an opportunity to the candidates for a position within the Board to introduce themselves.

It is worth mentioning that the pre-meeting was attended by a total of 171 participants, full members and substitute members of Council, and support staff.

2/ The pre-meeting was opened at 10 am by President Leyder. A request was filed by the Dutch delegation concerning the legality of holding the Council meeting by videoconference. The President indicated that the Pre-

sidium decided to cancel the place and date of C88 because of the pandemic. The Presidium had extensive discussion with the By-Laws Committee (BLC), the latter being supported by the Legal Advisors from the Secretariat. The BLC came to the conclusion that **epi** could invoke *force majeure* in view of its international status, and that the Council meeting could be held “online” in view of Articles 55-2 and 55-3 of the By-Laws. It was also pointed out in each election year, according to Article 23 of the By-Laws, Council had to elect (i) Board members, (ii) auditors and their deputies, and (iii) members of the Disciplinary Committee.

3/ Before the candidates were given the floor, the following reports from Committees were presented:

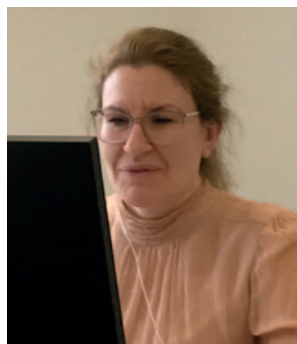
- Mr Mercer, the Chair of the EPPC, briefly explained that the EPPC had filed *amicus curiae*, on behalf of **epi**, in cases G1/19 (simulation), G2/19 (Haar) and G3/19 (pepper), and that another brief was in preparation for case G4/19 (double patenting); concerning the latter case, comments and suggestions were welcome.



- Mr Tangena, the Chair of the working group on the creation of an IP Commercialization Committee, presented provisional terms of reference for this new Committee.
- Mr Rambelli, the Chair of the Professional Education Committee, informed the participants that a series of webinar programs will be offered to members (the first four being organized from 24 June to 15 July and dealing with the following topics: plausibility, priority, clarity and disclaimers).

4/ The following candidates then introduced themselves.

- For the position of President: Mr Francis Leyder (BE), Mr Joao Pereira Da Cruz (PT) and Mr Peter Thomsen (CH).
- For the positions of Vice-President: Mr Baris Atalay (TR), Mr Bogoljub Ilievski (MK), Mr Cornelis Mulder (NL), Mr Paolo Rambelli (IT) and Ms Heike Vogelsang-Wenke.
- For the position of Secretary General: Mr Cornelis Mulder (NL) and Mr Tony Tangena (NL).
- For the position of Treasurer: Mr Peter Thomsen (CH) and Mr Zsolt Szentpeteri (HU).



- For the position of Deputy Secretary General: Ms Magdalena Augustyniak (PL), Ms Brigitte Taravella (FR), Mr Tum Thach (MC) and Mr Simon Wright (GB).
- For the position of Deputy Treasurer: Ms Magdalena Augustyniak (PL), Mr Tum Thach (MC) and Mr Zsolt Szentpeteri (HU).

After the presentation of all candidates, President Leyder closed the meeting.

Meeting on 29th June 2020

1/ Meeting opening

President Leyder opened the meeting at 10 am. For those who could not attend the pre-meeting, President Leyder explained again the reasons why the Presidium decided to cancel the meeting in Glasgow and why the meeting was instead held by videoconference.

Mr Gray, the Chair of the OCC and all the Secretariat staff were warmly thanked for making the arrangements for



the meeting to be held by videoconference. Warm thanks were also expressed to the BLC which provided extensive support.

Council then observed a minute of silence in memory of Mr Alberto de Elzaburu (ES) who passed away during the Easter week-end at the age of 92. Two Council members, Mr Saez Granero and Mr Casalonga, addressed Council to give a eulogy.

As was done during the pre-Council meeting, Mr Gray explained the various functions of the videoconferencing system, and two rounds of voting test were carried out to make sure everybody was comfortable with the voting tool. At that point 208 participants were in attendance, full members and substitute members of Council, scrutineers, observers and support staff.

2/ Appointment of scrutineers

Ms Leissler-Gerstl (DE) and Mr Stöckle (DE), both from Munich, were unanimously appointed as scrutineers.

3/ Results of the election

Mr Müller, the Chair of the Electoral Committee, referred to his report in the accumulated file. Only 6 ballots out of 12741 were sent by post (and all the others electronically). The turnout for the election was 27.4%, to be compared with 26.1% in 2017, 31.5% in 2014 and 39.1% in 2011.

Mr Müller informed members of split constituencies that if they intended to change to unitary constituency then this should be done no later than the year before the next election.

President Leyder thanked the members of the Electoral Committee and, while the list of successful candidates was displayed on a screen, informed Council members that no objections had been raised, and accordingly confirmed the validity of the election. The meeting was therefore duly constituted as the New Council.

4/ Adoption of the provisional agenda

The agenda was adopted (125 votes for, 1 against, 2 abstentions).

5/ Adoption of the minutes of the 87th Council meeting – matters arising from said minutes and all previous Council and Board meetings

The minutes of the last Council meeting were approved (127 votes for, 0 against, 6 abstentions). The Secretary General informed Council members that the action points arising from the last meeting had been completed. It was further noted that the Presidium had established a list of cooperation matters between **epi** and the EPO.

6/ Report of the President and Vice-Presidents

The President referred to his report in the accumulated file, and informed Council members that 10 Presidium meetings and 4 Board meetings had taken place over the past 3 months. Vice-President Vogelsang-Wenke also referred to her report in the accumulated file. Vice-President Kunič Tešović expressed her thanks to Council members for the work done over the past 3 years, in particular for the fact that the workshare initiative had been completed.

7/ Report of the Secretary General

The Secretary General referred to his report in the accumulated file. The Secretary General thanked Mr Gray and the Secretariat for making the meeting possible. The Secretary General also informed Council members that the 90th Council meeting will be held in Glasgow the week-end of 8th and 9th May 2021. The legal advisors will review new contracts with hotels such that a clause is included to provide the possibility to cancel a booking due to force majeure. A discussion ensued regarding the Annual Report 2019, and whether or not a passage of the report actually reflected the Board's position. It turned out that the Board had decided to delete the passage in question and that the wrong document had been included in the accumulated file. The revised version was approved by all voting members but one who abstained.

8/ Report from the Treasurer

a) The overall financial result for 2019 is +220 k€ whereas a deficit of 65 k€ had been planned. Income revenues were slightly higher than expected, because a high number of candidates passed the EQE, generating additional subscription fees, and because the subscription payment was streamlined under amended rule 154 EPC. Expenses were substantially lower than planned for all cost centres, save for the IT cost centre.

b) The Treasurer then provided an update on a number of topics and on-going projects, including:

- according to an external opinion by a recognized expert in international public institution law, the legal status of **epi** is that of a side organ of the EPOrg with certain financial and organisational autonomy.

- the professional liability insurance (PLI) scheme for members is still available.
- the possibility for members of the Presidium to benefit from a liability insurance will be investigated.
- the process of selecting a software for the digitalized reimbursement of expenses is under way.
- WIPO/WEF Inventors Assist Program (IAP): discussion with WIPO and banks are ongoing to define the legal structure and the content of a contract between WIPO and **epi** on the administration of a regional fund for IAP in Europe. Activities will resume as soon as the health crisis allows.

9/ Report of the epi-Finances Committee

Mr Maikowski, the Chair of the **epi**-Finances Committee, reported that the financial situation of **epi** is excellent.

10/ Report of the Internal Auditors

The Internal Auditors suggested to review the cost centre structure and to optimize the allocation process, and to change the accounting year from the 1st of July of year X to the 30th June of year X+1 (instead of 1st January to 31st December of the same year).

The Internal Auditors also presented a motion to release the Treasurer from liability for the accounting year 2019. The motion was approved (128 votes for, 0 against, 5 abstentions).

Council also voted to release members of the previous Board from liability (127 votes for, 0 against, 6 abstentions).

11/ Situation of the 2020 Budget

The Treasurer explained that due to the Covid-19 pandemic, the income for 2020 will be lower than expected (essentially because since the EQE has been cancelled there will be no new members in 2020) whereas at the same time the expenses will be much lower than expected (substantial savings will be made on Council





and Committee meetings). At the end of June 2020, a planned excess of +30 k€ is foreseen. The Treasurer indicated that there was no need for the time being to amend the budget, which will be adapted if and as appropriate at the next Council meeting.

The Treasurer then mentioned that he intends to take into accounts some the remarks made by the Internal Auditors, notably with respect to improving the accuracy and timeliness of the accounting processes and to reviewing the cost account structures of **epi**.

12/ Election of Board Members

After a break, the meeting resumed and was chaired by Vice-President Kunič Tešović. The elections to the various positions of the Boards took place using a voting tool. The results of the elections are as follows.

President:

Mr Francis Leyder (BE)	52 votes
Mr João Pereira Da Cruz (PT)	47 votes
Mr Peter Thomsen (CH)	34 votes
Abstention	0

After this vote, Mr Tangena (NL) withdrew his candidacy for the position of Secretary General, and Mr Cees Mulder (NL) withdrew his candidacy for the position of Vice-President.

First Vice-President

Mr Baris Atalay (TR)	16 votes
Mr Bogoljub Ilievski (MK)	14 votes
Mr Paolo Rambelli (IT)	16 votes
Ms Heike Vogelsang-Wenke (DE)	90 votes
Abstention	0

Second Vice-President

Mr Baris Atalay (TR)	42 votes
Mr Bogoljub Ilievski (MK)	51 votes
Mr Paolo Rambelli (IT)	43 votes
Abstention	1

Secretary General

Mr Cornelis Mulder (NL)	79 votes
Abstention	52

After this vote, Mr Zsolt Szentpeteri (HU) withdrew his candidacy for the position of Treasurer.

Treasurer

Mr Peter Thomsen (CH)	121 votes
Abstention	14

Deputy Secretary General

Ms Magdalena Augustyniak (PL)	60 votes
Ms Brigitte Taravella (FR)	24 votes
Mr Tum Thach (MC)	8 votes
Mr Simon Wright (GB)	41 votes
Abstention	1

After this vote, Ms Magdalena Augustyniak (PL) withdrew her candidacy for the position of Deputy Treasurer.

Deputy Treasurer

Mr Zsolt Szentpeteri (HU)	81 votes
Mr Tum Thach (MC)	48 votes
Abstention	6

Re-elected President Leyder announced that Mr Ilievski will be his deputy for the first half of the Council term, and that Ms Vogelsang-Wenke will be his deputy for the second half.

13/ Election of members of the Disciplinary Committee

There was one candidate per country. All of them were elected (122 votes for, 0 against, 3 abstentions). The list of the members is available on the **epi** website (<https://patentepi.org/en/epi-bodies/the-disciplinary-committee.html>).

14/ Election of Internal Auditors

First auditor

Ms Mara Jankovic (RS)48 votes
Mr Hansjörg Kley (CH)80 votes
 Abstention.....6

Second auditor

Ms Mara Jankovic (RS)62 votes
Mr Philippe Conan (FR).....63 votes
 Abstention.....4

First substitute auditor

Mr Alexander Hedenetz (AT)60 votes
 Mr Bernd Kutsch (LU).....54 votes
 Abstention.....14

Second substitute auditor

Ms Larisa Fortuna (LV)50 votes
 Mr Bernd Kutsch (LU).....22 votes
 Mr Uros Plasva (RS)16 votes
 Mr Andreas Tannr (DE).....35 votes
 Abstention.....6

15/ Confirmation of terms of reference of existing Committees. Setting up of a new Committee

Council members confirmed the terms of reference of all existing Committees (117 votes for, 3 against, 6 abstentions).

A discussion followed regarding the creation of a new Committee, namely the IP Commercialization Committee (IPCC – see report of pre-meeting). Questions were asked about what this new Committee would in practice do for the benefit of members.

The following motions were then presented to Council.

a) Does Council agree to the setting up of a Committee dealing with IP commercialization?

In favour92 votes
 Against.....26 votes
 Abstention.....5

The required 2/3 majority of voting members was obtained

b) Does Council approve the terms of reference of the IPPC with the word “advise” being replaced by “deal with”?

In favour97 votes
 Against.....11 votes
 Abstention.....15

16/ Address by new President and closing of meeting

Newly re-elected President Leyder briefly addressed Council. He thanked the members of the outgoing Presidium for their involvement, and welcomed new Presidium members. President Leyder mentioned that the Committees are the lifeblood of **epi** and that the Presidium is looking forward to working with them. President Leyder thanked everyone who made the meeting a success: the BLC, the Legal Advisors, Mr Gray and all the Secretariat staff; and closed the meeting.

Autumn 2020 Council meeting by Videoconference

In view of the uncertainty created by the Covid-19 pandemic, the Presidium decided to cancel the physical Council meeting which was planned to take place in Ljubljana (SI) on 14 November 2020. Instead, an e-Council meeting will be organised on Friday afternoon 13 November and Saturday 14 November 2020.

During its autumn meeting, Council should decide the annual budget and the subscription for 2021.

As we are in an election year, Council should also elect the members of Committees, other than the Disciplinary Committee, for the 2020-2023 term of office. **epi** members are encouraged to become a member of a committee and to actively contribute to

the work of the committee. Enrolment as a candidate is possible on the **epi** website until 20 September.

The President of the EPO has promised to join the meeting; we are looking forward to his presentation followed by a lively discussion. In addition, time will be taken for other substantive issues such as the presentation and discussion of reports prepared by committees.

It is regretful that we cannot have physical Council meetings in 2020 because we all miss the social aspects and the networking that videoconferences cannot provide. Subject to the evolution of the pandemic, the spring 2021 Council meetings is being planned in Glasgow.

Considerations about the training of EQE candidates during the Covid-19 crisis¹

N. van der Laan (Legal Advisor), F. Leyder (President)

The definition of the period of activity

Due to the COVID-19 pandemic, **epi** has recently received more questions about the definition of the period of activity required according to the Regulation on the European qualifying examination for professional representatives before the European Patent Office (REE). The present considerations have been drafted to enable candidates and their supervisors assess their situation.

According to Article 9(2)(c) and 10(2) REE, it is the Examination Secretariat (ES) that decides on the registration and enrolment of candidates in accordance with the REE and the IPREE, without being bound by any instructions and only complying with the provisions of the REE and the IPREE. It is also referred to the relevant FAQ² on their website.

An appeal is possible (Article 24(1) REE), but only on the grounds that the REE or any provision relating to its application have been infringed.

The ES usually decides on the basis of the certificates provided by the candidates, and it is for the candidates to decide in all conscience whether to sign; the ES requests explanations in case of doubt.

An example of a question **epi** received is the following:

Due to the situation with COVID-19, some of the trainees in our company may be considered for "furloughing", "chômage technique" or "Kurzarbeit". For the purposes of the EQE certificate of training, would any such period be deducted from a period of training or employment?

The legal framework

Under Article 134a(1)(b) EPC, the Administrative Council (AC) is competent to adopt and amend provisions governing the training required of a person for admission to the European qualifying examination (EQE).

The AC adopted the Regulation on the European qualifying examination for professional representatives before the European Patent Office (REE). In accordance with Article 3(7) REE, the Supervisory Board adopted Implementing provisions to the Regulation on the European qualifying examination (IPREE). The latest versions of the REE and IPREE are published in Supplementary publication 2 – OJ EPO 2019³.

Relevant with regard to training periods are in particular, Art 11(2), (3) and (4) REE and Rule 15 IPREE (see Annex).

The relevant elements for determining the period of activity

The relevant elements for the present considerations can be reduced to the following:

- (A: full-time;
- (B: a period expressed in years;
- (C: taking part in a wide range of activities pertaining to European patent applications or European patents, including activities in proceedings relating to national patent applications and national patents;
- (D: **either** (D1) training under the supervision of, while assisting, a European Patent Attorney (EPA) **or** (D2) employment in an EPC contracting state and representation of the employer before the EPO (representation in proceedings relating to national patent applications and national patents is also taken into account).

As to (A), the definition of "full-time" might vary between the 38 EPC contracting states, but should be clear in the relevant state(s). It includes the period of annual leave. Any period of part-time (with a minimum of 50%, Rule 15(2) IPREE) is counted proportionally.

As to (B), since the period is expressed in years, it must be understood that a rule of reason must be applied, and that there need not be deducted every single day of absence, e.g. for illness or even maternity.⁴

¹ The present considerations cannot in any way bind the Examination Secretariat or the Disciplinary Board of Appeal, who are solely bound by the REE and the IPREE.

² <https://www.epo.org/learning/eqe/faq.html#faq-1208>

³ <https://www.epo.org/law-practice/legal-texts/official-journal/2019/etc/se2.html>

⁴ Maternity leave meaning a period in which a woman is legally allowed to be absent from work in the weeks before and after she gives birth, e.g., in Germany normally 6 weeks before and 8 weeks after birth. Not included in this definition is the additional parental leave.

As to (C), the activities must mainly pertain to European patent applications or patents (representation in proceedings relating to national patent applications and national patents is also taken into account); a rule of reason should also apply, so that the occasional preparation for the EQE need not be deducted, like a mock exam paper.

As to (D1), being supervised by whilst assisting an EPA is an essential condition. This does not require that the candidate should have an employment relationship with the EPA or the firm of the EPA, or be an employee at all; for example, supervision can be done pro bono or through a contract.

As to (D2), by contrast, being employed **and** having represented the employer is an essential condition.

The two conditions (D1) and (D2) should be viewed as alternatives; they do not need to be cumulated.

View of the epi

epi's view is that, a period of complete unemployment would not count under criterion (D2) and would thus be deducted. Reduced employment would count proportionally as part-time employment. In any case, the Examination Secretariat should be informed of such a reduction.

Whether such a period would count under criterion (D1) would not depend on the relationship with the company but on whether training is done during that period under the supervision of, and as an assistant to, an EPA.

Informing the Examination Secretariat

As a first step, before enrolling to the pre-examination, candidates need to register (by 15 January if they intend to sit the next year). When registering, candidates and their trainers are reminded of their duty to inform the Examination Secretariat of any changes in their professional activity.

Final remarks

It is for the mentor to decide in all conscience whether he/she signs the declaration of a training period of three years.

It has to be stressed that in the end, it is for the candidates to satisfy the Examination Secretariat that they meet the requirements (Article 11(2)(a) REE).

ANNEX

Article 11 REE:

Conditions for registration and enrolment

(1) *Candidates shall be registered for the examination on request provided that*

(a) *they possess a university-level scientific or technical qualification, or are able to satisfy the Secretariat that they possess an equivalent level of scientific or technical knowledge, as defined in the IPREE, and*

(b) *have started the professional activities defined in paragraph 2(a) or are employed as defined in paragraph 2(b).*

(2) *Subject to paragraph 1, candidates who apply to be enrolled for one or more examination papers must be able to:*

(a) *satisfy the Secretariat that, at the date of the examination, they have:*

(i) *completed a full-time training period of at least three years in one of the contracting states to the European Patent Convention (hereinafter "the EPC") under the supervision of one or more persons entered on the list of professional representatives before the EPO (Article 134(1) EPC), as an assistant to that person or those persons, and that in the said period they took part in a wide range of activities pertaining to European patent applications or European patents, or*

(ii) *worked full-time for a period of at least three years in the employment of a natural or legal person whose residence or place of business is within the territory of the EPC contracting states and have represented their employer before the EPO in accordance with Article 133(3) EPC while taking part in a wide range of activities pertaining to European patent applications or European patents, or*

(b) *satisfy the Secretariat that at the date of the examination they have performed full-time the duties of an examiner at the EPO for at least four years.*

(3) *The duration of the periods of professional activity referred to in paragraph 2(a) may be aggregated to make up a total full-time training period. The periods of professional activity shall only be considered after the qualification required in paragraph (1)(a) has been obtained and subject to any further provisions laid down in the IPREE.*

(4) *In determining the periods of activity referred to in paragraph 2(a) the Secretariat shall also take into account candidates' activities in proceedings relating to national patent applications and national patents.*

(5) *Under the conditions laid down in the IPREE, the Secretariat may grant a reduction, of up to one year, in the duration of the periods of professional activity defined in paragraph 2(a) above.*

(6) An application for registration and/or enrolment for the examination shall not be deemed to have been filed until after the prescribed fees have been paid within the period laid down in the notice specified in Article 18.

(7) If a pre-examination, as referred to in Article 1 of this Regulation and defined in the IPREE, is to be held, candidates who apply for enrolment for this pre-examination must be able to satisfy the Secretariat that at the date of the said pre-examination they have completed the periods mentioned in paragraph 2(a) and (b) above, such periods being reduced by one year. All other conditions applicable to the examination shall apply equally to the pre-examination unless the contrary is specifically stated. Moreover, if such a pre-examination is held, candidates who apply to be enrolled for the examination must have obtained a pass grade in the pre-examination.

(8) Members of the Supervisory Board, the Examination Board, the Examination Committees and the Secretariat shall not be entitled to enrol for the examination. Former members of these bodies who satisfy the requirements of paragraphs 1 and 2 shall be entitled to enrol, at the earliest, for the third examination following the expiry of their term of office.

Rule 15 IPREE:

Professional activities

(1) The professional activities referred to in Article 11(2)(a) REE shall be completed in one or more of the contracting states.

(2) Only professional activities amounting to a minimum period of three months with at least 50% part-time involvement shall be considered for the purposes of Article 11(3) REE.

New team

C. Mulder (NL) and M. Augustyniak (PL)



Cornelis Mulder



Magdalena Augustyniak

At the first ever Council meeting held by videoconference replacing the planned physical Council meeting C88 in Glasgow, a new Board was elected. The huge effort and dedication put in the organization of the whole e-meeting by everyone involved assured the smooth conduct and organizational success of the Council meeting.

As President, Francis Leyder (BE) was appointed for a second term. Heike Vogelsang-Wenke (DE) retained the position of Vice President and Peter Thomsen (CH) was re-elected as Treasurer.

Newly elected members of the Presidium are Bogoljub Ilievski (MK) as Vice President and Cornelis Mulder (NL) as Secretary General.

These five Presidium members, will be supported by Magdalena Augustyniak (PL) (elected as Deputy Secretary General) and Zsolt Szentpeteri (HU) (elected as Deputy Treasurer).

After the Council meeting, the new 7-member team assisted by Amélie Faivre from the Secretariat held two informal meetings to become better acquainted with each other and to ensure that they work together in a friendly and mutually stimulating manner.

During the first Board meeting after the Council meeting, topics such as the seminars organised by **epi** solely, or in cooperation with the EPO, in autumn 2020, the planned Council meetings November 2020 and May 2021 as well as the expected changes in the format of the EQE were discussed. In addition, preparations started for the upcoming regular meeting with Mr. Campinos, President of the EPO. Last but not least, in order to maintain a smooth cooperation within the institute bodies, the Presidium plans to hold a meeting with each Committee in the forthcoming period.

The new team wishes all **epi** members and their families a lot of health and strength in these challenging times and looks forward to further collaboration with everyone interested in building the future of the **epi**.



Patent Practice

Amendment of the EPC Rule on interruption of proceedings puts an end to zombie applications

C. Mulder (NL) and J. Van kan (NL)

Interruption of proceedings (Rule 142 EPC) provides a safeguard for an applicant for (or proprietor of) a European patent, who is temporarily unable to act in proceedings before the European Patent Office as a result of financial or medical hardship. Interruption allows the party to remedy any loss of rights which occurred during this period. Interruption of proceedings is declared ex officio by the EPO and, normally, retroactively from the first day of the legal incapacity. Recently, Rule 142 EPC has been amended to give the EPO also ex officio power to end the proceedings. The amended Rule as well as its advantages and disadvantages are discussed.

1 Introduction

Rule 142 of the European Patent Convention (EPC) deals with the situation that proceedings before the European Patent Office (EPO) are interrupted because the applicant for (or proprietor of) a European patent is prevented from

continuing proceedings as a result of medical or financial hardship. In addition, Rule 142 EPC provides for interruption of proceedings in case of the death of the applicant (or proprietor) as well as in the event of death or legal incapacity of the professional representative of the applicant (or proprietor).

The aim of Rule 142 EPC is to provide a safeguard for parties who are unable to act in proceedings, because they are temporarily legally incapacitated (due to e.g. insolvency, bankruptcy or mental health problems), and allows them to remedy any loss of rights which occurred during this period.¹⁻² The proceedings are resumed after the (new) party or the (new) professional representative involved has

¹ Travaux Préparatoires EPC 1973: Rule 90 EPC 1973. See (accessed 01.06.2020): <https://www.epo.org/law-practice/legal-texts/epc/archive/epc-1973/travaux.html>.

² Travaux Préparatoires EPC 1973: Document BR 060 e 70; point 61. See (accessed 01.06.2020): <https://www.epo.org/law-practice/legal-texts/epc/archive/epc-1973/travaux/documents.html>.

informed the EPO that the situation is normalised and the wish is indicated to continue the proceedings.

Rule 142 EPC regards the missing of time periods as if they had not occurred in a similar manner as further processing³ and re-establishment of rights⁴. There are also analogies between interruption of proceedings and stay of proceedings.⁵ In the latter case, proceedings before a national court have been initiated by a person who is of the opinion that he is entitled to the grant of the European patent.⁶ Interruption of proceedings is not available for the opponent or his representative.⁷

In principle, interruption of proceedings is applied *ex officio* by the legal division of the EPO and retroactively from the



Cornelis Mulder

first day of the incapacity. In cases pending before a board of appeal, the board is responsible to deal with a request for interruption.⁸ In addition, the professional representative of the applicant (or proprietor) can apply for interruption of proceedings if he informs the EPO about the situation of his client.⁹ The entry of interruption of proceedings in the European Patent Registry has a declarative effect.¹⁰



Joep Van kan

Procedural aspects of interruption of proceedings are dealt with in the *Guidelines for Examination in the EPO*.¹¹ In addition, the Case Law book gives a summary of the case law of the EPO Boards of Appeal in relation to interruption of proceedings.¹² The situation with respect to insolvency

causing interruption of proceedings is extensively discussed in an article by Neuburger in *epi* Information.¹³

In 2019, an article was published by the current authors discussing the problems with Rule 142 EPC.¹⁴ One of the problems is that the EPO can only resume proceedings when the (new) applicant (or proprietor) or his (new) professional representative informs the EPO that the reasons for the interruption have ceased to exist and the wish is indicated to continue the proceedings. If the EPO does not receive such information, the proceedings can never be resumed. The second problem is that proceedings are often declared interrupted retroactively by the EPO even after four, five, six or sometimes even more than six years after the loss of rights has occurred. Such a long retroactive effect is against the legitimate interests of the public. Yet another problem of Rule 142 EPC is that there is no provision for the right of continued use for a person who in good faith used or made effective use of the invention while the application or patent appears to be dead and the proceedings have not been declared interrupted.

Probably inspired by the article of the current authors,¹⁵ the EPO started considering proposals for amending Rule 142 EPC, in particular with the goal to give the EPO *ex officio* power to bring the proceedings to an end if, after a certain period of time, no reaction from the applicant (or proprietor) is received.¹⁶ Amended Rule 142 EPC entered into force on 1 July 2020.¹⁷ The EPO has published a Notice concerning the implementation of amended Rule 142(2) EPC.¹⁸

In this article, the old and the new Rule are discussed. In Chapter 2 a brief historic overview of Rule 142 EPC is given. Chapter 3 discusses the relevant ins and outs of current Rule 142 EPC. In Chapter 4, the advantages and disadvantages of the amended Rule, as well as the unresolved problems are discussed.

2 Origin of Rule 142 EPC

2.1 EPC 1973

The Rule in the EPC 1973 relating to interruption of proceedings was Rule 90 EPC 1973. The latter Rule was present from the beginning and has since then been amended once.¹⁹⁻²⁰

3 Art. 121 and Rule 135 EPC.

4 Art. 122 and Rule 136 EPC.

5 Rule 14(2) EPC.

6 Art. 61 EPC.

7 Rule 84(2), first sentence, EPC.

8 See decisions T 854/12 and T 1389/18 of the Technical Boards of Appeal. In T 54/17, the board decided that during appeal proceedings, the legal division has no exclusive jurisdiction to interrupt the proceedings.

9 See the last sentence of Rule 142(1)(a) EPC: "To the extent that the above events do not affect the authorisation of a representative appointed under Article 134, proceedings shall be interrupted only on application by such representative". Also see Rule 152(9) EPC.

10 Also see decision J 16/05 of the judicial board of appeal.

11 *Guidelines for Examination in the EPO* (2019) E-VII 1. See (accessed 01.06.2020): <https://www.epo.org/law-practice/legal-texts/guidelines.html>.

12 *Case Law of the Boards of Appeal of the European Patent Office* (9th edition; 2019) III.D.3. See (accessed 01.06.2020): <https://www.epo.org/law-practice/case-law-appeals/case-law.html>.

13 Dr. B. Neuburger, "Interruption of the proceedings due to insolvency before the EPO and UPC" in *epi* Information 4|2017.

14 Cees Mulder and Joep Van kan, "On the Interruption of Proceedings before the European Patent Office Following Insolvency Proceedings and Protecting the Interests of the Public" in *European IP Review* 41 (2019) pp.305-312.

15 In October 2018, a draft version of the article was made available to the Patent Law section of the EPO.

16 President EPO: "Amendment to the Implementing Regulations to the EPC regarding resumption of proceedings – Rule 142 EPC", Committee on Patent Law, document CA/PL 13/19 (4 November 2019).

17 Decision CA/D 2/20 of the Administrative Council of the European Patent Organisation, Official Journal of the EPO 2020 A36.

18 Notice from the EPO dated 29 May 2020 concerning implementation of amended Rule 142(2) EPC, Official Journal of the EPO 2020 A76.

19 *Travaux Préparatoires* of the EPC 1973: Rule 90 EPC 1973. See (accessed 01.06.2020): <https://www.epo.org/law-practice/legal-texts/epc/archive/epc-1973/travaux.html>.

The *Travaux Préparatoires* of the EPC 1973 do not contain any information regarding the origin of Rule 90 EPC 1973.²¹ In addition, there is no equivalent Rule regarding interruption of proceedings in the *German Patent Act* (PatG), which might have served as a blueprint for the Rule in the EPC. It seems likely that the German provisions regarding interruption of proceedings and the application thereof with regard to the German patent practice have served as a model for drafting Rule 90 EPC 1973. In particular, this can be concluded from the practice at the *German Patent and Trade Mark Office* and at the *German Federal Patent Court*, as both apply in analogy the pertinent provisions of the *German Code of Civil Procedure* with regard to interruption of proceedings.²²

2.2 EPC 2000

After the EPC Revision Conference in November 2000, the wording of Rule 90 EPC 1973 was streamlined and aligned with the style of the EPC 2000.²³⁻²⁴

3 Common practice under Rule 142 EPC

3.1 Some statistics

The EPO weekly publishes a *European Patent Bulletin* containing the particulars the publication of which is prescribed by the European Patent Convention (EPC), the Implementing Regulations or by the President of the EPO.²⁵ The Bulletin has an online search tool (free of charge) for accessing information on the biblio-

graphic and procedural status of European applications and patents from 1978 to the present.²⁶ For instance, a query can be set that cumulates the European patent applications and patents where interruption or stay of proceedings is contained in the file.²⁷⁻²⁸

In Figure 1, the statistics of interruption and stay of proceedings are depicted. In the period 2009-19, the average number per year is approximately 390 (standard deviation ≈ 130). The majority of the cases in Figure 1 relates to interruption of proceedings. The peaks in the figure are caused by one or several applicants with a portfolio of patent rights going bankrupt in a certain year.²⁹ In approximately 90% of the interruption cases, the proceedings are eventually resumed. However, in approximately 10% of the cases where interruption of the proceedings has been declared by the EPO, the proceedings are never resumed.³⁰

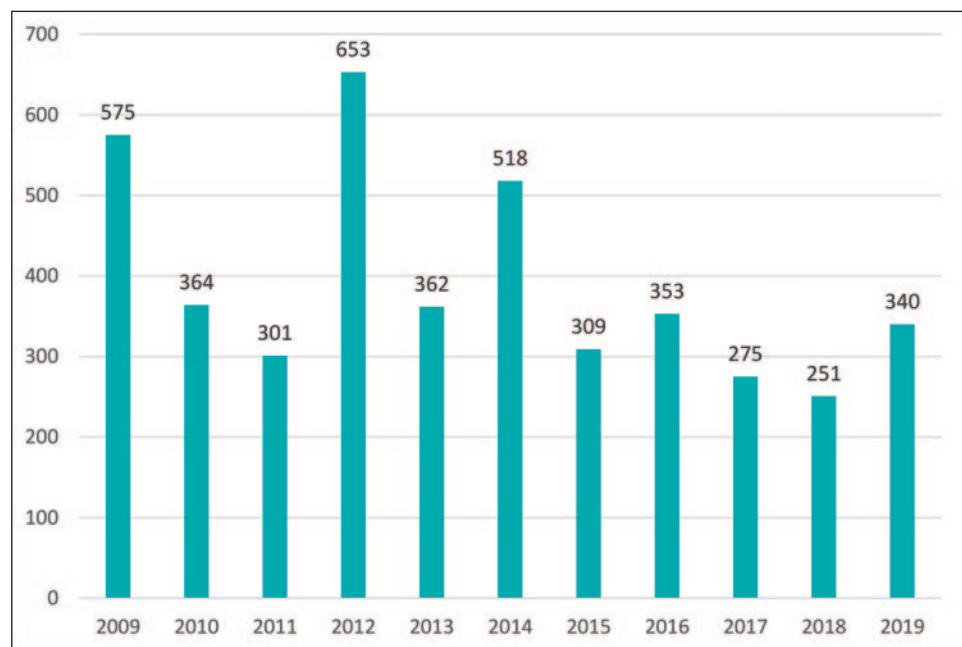


Figure 1: Number of European patent applications and patents where the proceedings were declared interrupted by the European Patent Office (data retrieved by Cees Mulder on 01.06.2020).

20 Decision of the Administrative Council of the European Patent Organisation of 5 June 1987 amending Rule 90(1)(c) EPC 1973 (added text italicised): "(c) in the event of the death or legal incapacity of the representative of an applicant for or proprietor of a European patent or of his being prevented for legal reasons resulting from action taken against his property from continuing the proceedings before the European Patent Office." Official Journal of the EPO (1987) p. 279.

21 In the *MünchKer Gemeinschaftskommentar* in relation to Art. 120 EPC (Issue 26, 2003, Carl Heymanns Verlag), Rule 90 EPC 1973 was placed in historic perspective. According to the author B. Schachenmann, Rule 90 EPC 1973 (now Rule 142 EPC 2000) implements Art. 125 EPC ('Reference to general principles'), rather than Art. 120 EPC ('Time limits'). This was the reason why Rule 142 EPC was allocated to a separate chapter (VIII) in Part VII of the Implementing Regulations to the EPC.

22 See sections 239 to 249 of the *Zivilprozessordnung* (= *German Code of Civil Procedure*) which are applicable to proceedings before the *Deutsches Patent- und Markenamt* (= *German Patent and Trade Mark Office*) and to the *Bundespatentgericht* (= *BPatG*) by way of reference in the applicable administrative procedural law: see section 173 of the *Verwaltungsgerichtsordnung* (= *German Code of Administrative Court Procedure*).

23 Explanatory remarks 2002: CA/PL 5/02 Rev. 1 Add. 1. The *Travaux Préparatoires* of the EPC Revision 2000 can be found on the EPO website. See (accessed 01.06.2020): <https://www.epo.org/law-practice/legal-texts/epc/archive/documentation.html>.

24 Special Edition No. 5 Revision of the European Patent Convention (EPC 2000) Synoptic presentation EPC 1973/2000 - Part II: The Implementing Regulation, Official Journal of the EPO (2007).

25 See Art. 129(a) EPC.

26 See (accessed 01.06.2020): <https://www.epo.org/searching-for-patents/legal/bulletin/ep-bulletin-search.html#tab1>.

27 The search criterion "PSSI" in *EP Bulletin search* retrieves patent applications and patents where stay of proceedings (Rule 14 EPC) or interruption of proceedings (Rule 142 EPC) occurred. For example, the query PSSI = 2018* retrieves all applications/patents where a stay or interruption of proceedings occurred in 2018.

28 The *EP Bulletin search* was used to retrieve the examples in this article. The database is continuously updated, therefore Figure 1 mentions the date on which the results have been retrieved.

29 For instance in 2012, there is one applicant who went bankrupt and the proceedings were declared interrupted for 343 patent applications: this explains the outlier in 2012 in Figure 1.

30 In the period 2009-2019, proceedings were declared interrupted in respect of 4,301 applications whereas proceedings were resumed in respect of 3,720 applications. This implies that 581 applications (14%) have not (yet) been resumed.

3.2 Typical interruption cases

The most common cases of interruption of proceedings are the ones where an applicant (or proprietor) runs into severe financial difficulties, often as a result of an action against his property.³¹ In such a situation (e.g. bankruptcy or insolvency) the applicant is barred for a period of time from continuing with the proceedings (legally incapacitated).

By way of example, European patent application EP 3 535 150 was selected which originated from international application WO 2016/142653 A1. The most relevant events are arranged in Table 1. In this example, the EPO is informed about the insolvency after the 31 month period for entry into the regional phase before the EPO had been

missed, but within the period that further processing would be available. After receiving the required proof (court order), the legal division of the EPO declares the proceedings interrupted retroactively. After the EPO has been informed about the end of the insolvency proceedings and about the person authorised and willing to continue the proceedings, the EPO sets a date for the resumption of the proceedings. During the period of interruption all time periods (including the ones for paying renewal fees) are interrupted and start again from the date of resumption.³² Shortly before the proceedings are resumed, the applicant of EP 3 535 150 requests entry into the EP regional phase and also pays the required fees for entry as well as requests further processing. After the request for further processing has been accepted by the EPO, the substantive examination starts.

EP 3 535 150	Proceedings status	
12.03.2015	Filing GB 1504232.8	Priority application
01.03.2016	Filing PCT/GB2016/050535	International filing date
15.09.2016	WO 2016/142653 A1	International publication
19.07.2017	EPO Form 1201	Information from the EPO on entry into EP regional phase
(12.10.2017)	Last date for valid entry in EP regional phase	This date was missed
17.11.2017	Communication from EPO pursuant Rule 112(1) and 160(1) EPC	Euro-PCT application deemed to be withdrawn: acts for entry into EP phase not performed
21.11.2018	Communication from the legal division pursuant Rule 142(1)(b) EPC	Proceedings are declared interrupted as of 12 December 2017
12.12.2017	Interruption of proceedings	Interruption is declared retroactively
07.03.2019	Communication from the legal division pursuant Rule 142(2) EPC	Proceedings will be resumed on 3 June 2019
16.05.2019	EPO Form 1200	Request for entry in EP regional phase (including payment of the required fees)
	Request for further processing	Request to remedy loss of rights following interruption of proceedings (including payment of the required fees)
	Response to written opinion: EPO acted as ISA (Rule 161(1) EPC)	Filing of amended claims and amended description, with annotations
03.06.2019	Resumption of proceedings	
19.07.2019	Decision on further processing	The legal consequence notified in the communication dated 17.11.2017 that the application was deemed to be withdrawn shall not ensue

Table 1: Example of a European patent application where proceedings were interrupted because of insolvency proceedings.

³¹ Almost 90% of the interruption cases relate to bankruptcy or similar judicial proceedings regarding the applicant or patent proprietor.

³² See Rule 142(4) EPC. On resumption of the proceedings most periods begin again to run for their original duration. Only the periods for filing the request for examination and for paying the renewal fees are suspended.

In a number of cases, proceedings are interrupted but never resumed.³³ By way of example, European patent application EP 2 351 885 was selected. The most relevant events are arranged chronologically in Table 2. In this case, the proceedings were interrupted in 2015 and never resumed. In 2015, the EPO issued the following communication:³⁴

"You are invited to inform the legal division of the EPO if an interested party could be found to continue proceedings in this application, and to file the relevant documents proving the authorisation of this party, in order to enable the EPO to resume proceedings. The legal division would also appreciate information if no interested party could be found to continue the proceedings. Please file observations within a period of 2 months on notification of this letter."

Until today no response was received by the EPO. As a consequence, the patent application will be 'pending' before the EPO (without paying any fees) until February 2030.³⁵ The existence of these so-called "noend files" or zombie applications is undesirable.

3.3 Interruption of proceedings versus re-establishment of rights

Another remedy which often can be successfully employed by an applicant is re-establishment of rights.³⁶ Re-establishment allows an applicant (or proprietor) to restore his rights after the non-observance of a time period.³⁷ Re-establishment of rights requires the requester to have exercised all due care required by the circumstances. The request for re-establishment must be filed within two months from the removal of the cause of non-compliance, but at the latest within one year of expiry of the unobserved time period.³⁸ The one-year restriction renders re-establishment of rights ineffective if the applicant is prevented to inform the EPO in due time about his situation (because he is legally incapacitated).

Re-establishment of rights and interruption of proceedings should not be understood as alternative remedies in case of a loss of rights. In principle, interruption excludes re-establishment, since interruption has to be ordered *ex officio* and no action can be taken during interrupted proceedings. Nevertheless, re-establishment of rights may

EP 2 351 885	Proceedings status	
09.02.2010	Form 1001	Request for grant of EP patent
14.04.2011		European search report with search opinion
03.08.2011		A1 publication
	Response to search (Rule 161(1) EPC)	Filing of amended claims and amended description, with annotations
17.11.2017	Communication from EPO pursuant Rule 112(1) and 160(1) EPC	Euro-PCT application deemed to be withdrawn: acts for entry into EP phase not performed
06.01.2012		Payment examination and designation fee
07.04.2015	Communication from EPO pursuant Rule 51(2) EPC	Non-payment of the renewal fee
12.12.2017	Interruption of proceedings	Interruption is declared retroactively
07.03.2019	Communication from the legal division pursuant Rule 142(2) EPC	Proceedings will be resumed on 3 June 2019
21.04.2015	Communication from the legal division pursuant Rule 142(1)(b) EPC	Proceedings are declared interrupted as of 01 April 2015
01.04.2015	Interruption of proceedings	Interruption is declared retroactively
28.05.2015	Communication from the legal division pursuant Rule 142(2) EPC	Request to inform the EPO whether proceedings can be resumed

Table 2: Example of a European patent application where proceedings were interrupted because of bankruptcy of the applicant.

³³ See footnote 29.

³⁴ EP 2 351 885: Communication from the legal division – original letter was in German.

³⁵ The term of a European patent is 20 years from the date of filing of the application (Art. 63(1) EPC).

³⁶ Re-establishment of rights is often also referred to as *restitutio in integrum*.

³⁷ See Art. 122 and Rule 136 EPC. Re-establishment of rights is not available for the opponent.

³⁸ See Rule 136(1) EPC.

be requested as an auxiliary request if the evidence for interruption is not sufficient.³⁹ If applicable, preference should be given to the application of reestablishment of rights in which proving the impairment is less severe than for interruption of proceedings.⁴⁰⁻⁴¹

4 Old Rule 142 EPC and its problems

Three problems of interruption of proceedings under old Rule 142 EPC require discussion.⁴²

- 1) The first problem with Rule 142 EPC is that the EPO can only resume proceedings when the (new) applicant or his (new) professional representative informs the EPO that the reasons for the interruption have ceased to exist and the wish is indicated to continue the proceedings. If this does not happen, the proceedings can never be resumed.
- 2) A second problem with Rule 142 EPC is that proceedings are often declared interrupted retroactively by the EPO even after three or more years (sometimes even more than six years) after the loss of rights has occurred. Such a long retroactive effect is against the legitimate interests of the public.
- 3) A third problem with Rule 142 EPC is that it has no provision for the right of continued use for a person who in good faith used the invention while the application or patent appears to be dead and the proceedings have not (yet) been declared interrupted.

As will be shown below, the first problem is solved by the amendment of Rule 142 EPC effective 1 July 2020.

4.1 *Ex officio* resumption of proceedings by the EPO

It is in the interest of legal certainty of the public that the period wherein proceedings are interrupted is as short as possible. For resumption of the proceedings, the EPO, under the old Rule, is totally dependent on the applicant or his (new) professional representative. The only possibility for the EPO to resume proceedings is when applicant informs the EPO that the reasons for the interruption have ceased to exist and that he expressly indicate the wish to continue with the patent application. Old Rule 142 EPC does not give the EPO any power to resume proceedings of its own motion.⁴³

³⁹ For example, see EP 1 578 265, EP 1 945 542 and EP 1 996 074.

⁴⁰ See decision J 7/16 of the judicial board of appeal.

⁴¹ *Case Law of the Boards of Appeal of the European Patent Office* (9th edition; 2019) III.E.6.4.

⁴² In the rest of the article where the word 'applicant' is used, one should read 'applicant or proprietor'.

⁴³ Only in the event of the death or legal incapacity of the representative of the applicant (Rule 142(1)(c) EPC), the EPO can resume proceedings if the appointment of a new representative takes too long (Rule 142(3) EPC).

The EPO has solved this problem by adding a second sentence to Rule 142(2) EPC (new text in red):⁴⁴

When, in the cases referred to in paragraph 1(a) or (b), the European Patent Office has been informed of the identity of the person authorised to continue the proceedings, it shall notify such person and, where applicable, any third party, that the proceedings will be resumed as from a specified date. *If, three years after the publication of the date of interruption in the European Patent Bulletin, the European Patent Office has not been informed of the identity of the person authorised to continue the proceedings, it may set a date on which it intends to resume the proceedings of its own motion.*

Advantages of the amendment

The result of the extra sentence in Rule 142(2) EPC is that on expiry of the three-year period from the publication of the interruption date in the European Patent Bulletin, the EPO will be entitled to set a date of its own motion after which proceedings will be resumed. This is a breakthrough amendment bringing balance between the interests of the applicant and the public. A consequence of the *ex officio* resumption is that procedural actions may become necessary and/or fees due have to be paid (e.g. accrued renewal fees). If the required procedural actions are not taken or the fees due are not paid, the application will be deemed to be withdrawn or the patent will be either revoked or maintained (in amended form).⁴⁵ In any event, the Office will be able to end the pending patent proceedings. In addition, the EPO will be able to close a file in a legally and technically sound manner, even if it is not informed of the person entitled to the application or patent. Therefore, this amendment puts an end to the zombie applications.

Disadvantages of the amendment

Note that the word "may" is used in the added sentence in Rule 142(2) EPC. If the applicant files a reasoned request for further postponing the resumption, the EPO may delay the resumption of the proceedings. This appears to be reasonable, but may further delay the resumption of the proceedings. The application and the duration of this postponement should, preferably, be explained in the Guidelines.

Also note that the three-year period does not run from the date of the start of the interruption of proceedings (in most cases, proceedings are declared interrupted retroac-

⁴⁴ Decision CA/D/2020 of the Administrative Council of the European Patent Organisation, Official Journal of the EPO 2020 A36. Amended Rule 142(2) EPC applies to all proceedings already interrupted on or after 1 July 2020.

⁴⁵ See footnote 16.

tively), but from the date the interruption of proceedings is mentioned in the *European Patent Bulletin*. This wording carries a risk, because the amendment may stimulate an applicant to wait as long as possible to inform the EPO that he was prevented from continuing the proceedings. The longer the applicant waits to inform the EPO, the later the legal division is able to publish the interruption of proceedings in the Patent Bulletin by which the three-year period starts to run. This undesired advantage for the applicant defies the aim of the amendment to allow the proceedings being concluded swiftly.

There is another issue which has not been considered upon amending Rule 142 EPC. As mentioned earlier (see, e.g., the example in Table 2), the legal division issues letters to the applicant (or his representative) requesting whether an interested party could be found to continue the proceedings which would enable the EPO to resume proceedings.⁴⁶ However, even if a duly appointed professional representative of the applicant informs the EPO that his client has no intention to resume proceedings, the EPO had no power under the old Rule 142 EPC, but also not under amended Rule 142 EPC to resume proceedings, because under amended Rule 142 EPC, the EPO has to wait until the three-year period has expired.

By way of example, reference is made to EP 1 471 865. Proceedings were declared interrupted as of 28 April 2010 owing to bankruptcy proceedings opened against the applicant. On 8 March 2012, the professional representative informed the EPO: *"Please be informed that the applicant does not intend to resume proceedings in the above-mentioned European patent application. For the sake of completeness a duly signed power of attorney is enclosed"*.

In another case (EP 1 483 732), proceedings were declared interrupted as of 5 January 2010 due to bankruptcy proceedings. On 5 June 2018, the appointed professional representative informed the EPO that the bankruptcy proceedings of his client ended in 2016. Two weeks later the legal division responded: *"... please be informed that according to Rule 142(1)(b) proceedings are interrupted ex-officio. Therefore your request dated 05 June 2018 cannot be granted."*

In both cases, the letter from the professional representative did not result in closing the case because under the old Rule the EPO has no power to act. However, this is also the case under amended Rule 142 EPC. Under the amended Rule, the EPO has to wait three years from the publication of the date of interruption in the Patent Bulletin, to be able to bring the case to an end.

This kind of situations could easily have been avoided by adding the words "or otherwise" to the new sentence in Rule 142(2) EPC (added text in red):

If, three years after the publication of the date of interruption in the European Patent Bulletin, the European Patent Office has not been informed of the identity of the person authorised to continue the proceedings or otherwise, it may set a date on which it intends to resume the proceedings of its own motion.

This "or otherwise" wording could be used to shorten the three years, for instance, when the applicant (or his representative) informs the EPO that he has no desire to continue with the application. This practice could be explained in the Guidelines.

4.2 No limit to retroactive effect of interruption of proceedings

A second problem with Rule 142 EPC is that proceedings often are declared interrupted retroactively by the EPO even after three or more years (sometimes even more than six years) after the loss of rights has occurred. Such a long retroactive effect is against the legitimate interests of the public.

In the earlier article written by the current authors,⁴⁷ also a figure with statistics was shown. For the current article, the collection of data on interruption was repeated and the results were compared with the previous figure. It was found that in the course of 2019, 118 new cases were declared interrupted retroactively in the years 2016-2018. However, 45 cases were declared interrupted retroactively in the years 2013-2015.⁴⁸ Such long retroactive effect is undesirable from a point of legal certainty.

Such extremely long retroactive effects could be avoided by including an extra paragraph in Rule 142 EPC:

Rule 142(1a) EPC: "Interruption of proceedings shall not affect a loss of rights which occurred more than three years before filing the request for interruption referred to in paragraph 1".

The authors believe that a period of three years would be sufficient.

Another solution to shorten the uncertainty of the public with respect to current Rule 142 EPC, would be to give the professional representative of the applicant an obligation to inform the EPO in the event of the death or legal incapacity of his client within a certain period of time. In

⁴⁶ Often the professional representative replies by renouncing representation of his client.

⁴⁷ See footnote 14.

⁴⁸ Even one case was declared interrupted retroactively in 2010.

this manner the proceedings could be declared interrupted much earlier than what is normally the case. This would significantly lower the uncertainty of the public: the public may at least know that the proceedings are interrupted. Such an obligation to the professional representative could be inserted in Rule 152 EPC. Current Rule 152(9) EPC deals with an authorisation of a representative that does not end upon the death of the person who gave it. An extra sentence could be added to Rule 152(9) or a new Rule 152(9a) EPC could be inserted reading:

“In the situation of Rule 142(1)(a) and (b), the professional representative of the applicant or proprietor shall inform the European Patent Office within three months from the events mentioned in Rule 142(1)(a) and (b).”

Yet another solution to better protect the interests of the public can be found in the 1964 draft version of Rule 90 EPC 1973 which provided that the proceedings would *“be interrupted until a legal representative has been appointed”*.⁴⁹ This would certainly shorten the period during which the proceedings are interrupted. Although the appointed ‘official receiver’ is the legal owner of the patent rights while the applicant is legally incapacitated and as such could take control of the patent rights, he was not given a role in the final version of Rule 90 EPC 1973.⁵⁰

4.3 No right of continued use

As discussed hereinabove, interruption of proceedings is often applied if the applicant is prevented from continuing the proceedings due to financial hardship. During the period that the applicant is legally incapacitated, he is normally unable to inform the EPO about his situation. Only when he is ‘back in business’, this can be communicated to the EPO. After having received the required proof, the EPO will declare the proceedings interrupted retroactively. Hence, there is a period in the life of the patent application, that the European Patent Register shows that a loss of rights has occurred. For example, the application is deemed to be withdrawn because the renewal fees have not been paid. If this period is shorter than one year, re-establishment of rights can be requested by the applicant. If a third party has in good faith used or made effective and serious preparations for using an invention in the period between the loss of rights and the mention of re-establishment of those

rights in the European Patent Bulletin, he may without payment continue such use in the course of his business or for the needs thereof.⁵¹ Such a right of continued use is not provided when the proceedings are declared interrupted under Rule 142 EPC.

In a situation of re-establishment of rights, the applicant actually missed to perform a required act (e.g. paying a fee or answering a communication from the EPO). This missing of the time period is the result of the applicant being unable to perform the required act in due time due to unforeseeable circumstances. If the applicant can prove that he acted diligently and carefully,⁵² the missed right may be restored. Requesting re-establishment of rights does not have suspensive effect on the proceedings. Hence, the legal consequences remain in force until the request for re-establishment is honoured. In this situation, providing a right of continued use seems appropriate,⁵³ because the application is actually dead for a certain period of time.

In the situation of interruption of proceedings, the patent application is not ‘really dead’ in the interrupted period. During the interruption, the applicant is unable to perform the required acts because he is legally incapacitated. Once the causes of the interruption are resolved, the patent application is revived *retroactively* as if the interruption had not occurred.⁵⁴ In such a situation, it seems inappropriate to provide for a right of continued use despite the fact that in most cases the proceedings are declared interrupted retroactively.

The conclusion from this discussion is that it has to be accepted that rights of third party can be affected by the interruption. By inserting a period of maximum duration into Rule 142 EPC for the ex officio resumption by the EPO as in amended Rule 142 EPC mitigates this effect. However, it is recommended to also set a limit to the retroactive effect of declaring the proceedings interrupted.

⁴⁹ Working document for Draft Implementing Regulations to the Convention establishing a European System for the Grant of Patents put forward by the Chairman of the “Implementing Regulations” sub-Committee of Working Party I, Document BR/GT I/63/70 (Brussels 6 October 1970).

⁵⁰ A reason could be that the ‘official receiver’ is rescuing more ‘vital’ things whereas taking care of any patent rights (apart from how he would become aware of them) is not prominent on his to-do list.

⁵¹ Art. 122(5) EPC.

⁵² The ‘all due care’ criterion in Art. 122(1) EPC. Also see decision J 952/00 of the judicial board of appeal.

⁵³ Art. 122(5) EPC.

⁵⁴ This also becomes clear from the wording of Rule 142(4) EPC which states that all periods in force at the date of interruption, start again as from the day on which the proceedings are resumed. Exceptions are provided for the period for filing the request for examination and for paying the renewal fees: these periods are resumed taking into account the already elapsed portions (with a minimum of two months).

Conclusion

Interruption of proceedings before the European Patent Office provides a safeguard for an applicant for or a proprietor of a European patent, who is temporarily unable to act in proceedings before the EPO as a result of financial or medical hardship.

Interruption of proceedings is declared *ex officio* by the EPO and, normally, retroactively from the first day of the legal incapacity.

In the event of death of the applicant or proprietor (Rule 142(1)(a) EPC) and in the event of an action against the property of the applicant or proprietor (Rule 142(1)(b) EPC), the EPO has no power to resume proceedings until it is informed by the (new) applicant (or proprietor) or the (new) professional representative that he/she desires to resume proceedings.

In view of the recent amendment of Rule 142 EPC, *ex officio* power is also given to the EPO to resume proceedings three years after the publication of the interruption date in the European Patent Bulletin. This amendment restores balance between the inter-

ests of the applicant (or proprietor) and the public. The advantages, disadvantages and the risks of the amendment are discussed.

In the amended Rule, it could have been easy to provide possibilities to terminate the interrupted case, e.g. when the professional representative of the applicant informs the EPO that his client is no longer interested in continuing with the application.

Unfortunately, setting a limit on the retroactive effect of the interruption as suggested in the article of the current authors, was not implemented.⁵⁵ Limiting the retroactive effect to three years would have been reasonable.

With little effort, the quality and effectiveness of Rule 142 EPC could have been further improved. This would have provided a better balance between the interests of the applicant and the public. The current authors believe that they could have given good advice to the parties involved in the process of amending Rule 142 EPC.

⁵⁵ Cees Mulder and Joep Van kan, "On the Interruption of Proceedings before the European Patent Office Following Insolvency Proceedings and Protecting the Interests of the Public" in *European IP Review* 41 (2019) pp.305-312.

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Competition, Innovation, Patients and Patents in the antibodies field:

Isn't it time to reconsider and change EPO practices for the well-being of innovation, patients and competition?

B. Carion-Taravella (FR) and C. Ribard (FR)

Monoclonal antibodies (mAbs) are a relatively nascent form of "precision medicine" drugs that aim to revolutionize treatment in many therapeutic areas. This positive development should be encouraged for the next generation of therapeutic mAbs to improve patient well-being. However, the research-based pharmaceutical industry developing new antibodies is currently facing significant and mounting challenges in the European innovation and patent ecosystem. The European Patent Office (EPO) is one of the main economic actors in Europe supporting pharmaceutical innovation by granting patents for inventions that provide patients access to affordable and innovative treatments. Unfortunately, with respect to antibodies innovation, the EPO does not help to curb some gaming and other anticompetitive behaviours that may drastically impact access to new medicine for the patient. Indeed, the current EPO working practices for examination of an antibody-based invention are uncertain; it discourages development of innovative therapeutics, prevents patient access to multiple alternative drugs and therefore deprives patients of the opportunity to choose the best drugs for their specific disease.

The Monoclonal Antibodies' Competitive Market

Monoclonal antibodies (mAbs) are an approach for disease treatment and prevention which considers pharmacogenomics and individual variability to drug response. More specifically, mAbs allow the stratification of pharmacological therapies to subgroups of patients who have the genetic variant of interest, overcoming the traditional "one size fits all" drug development paradigm (i.e., the traditional blockbuster approach) and shifting to a tailored therapy. mAb therapies are revolutionizing the biopharmaceutical field: they are being approved in record numbers (at twice the rate of small molecules) and are indicated for many cancers (one of their main fields of application) and chronic illnesses. They also help to optimize the efficacy and safety of drugs administered according to the patient's genomic

profile, ideally maximizing pharmacological responses and minimizing side effects.

Consequently, the mAb market has changed rapidly in the past five years. It has doubled in size, becoming dominated by fully human and bispecific molecules. These trends are expected to continue. Besides cancers and chronic illnesses, mAbs under development treat indications including obesity, diabetes, celiac disease, Alzheimer's disease, bacterial infections, and skin diseases (Mantalaris, January 2019).

The continued growth of mAb therapies is expected to be a major driver of biopharmaceutical product sales and prescriptions. In 2018, the global therapeutic monoclonal antibody market was valued at approximately US\$115.2 billion and this market is expected to generate revenue of \$300 billion by 2025. Despite this high growth potential, however, new companies are unlikely to take over large shares of the market, which is currently dominated by seven companies: Genentech (30.8%), Abbvie (20.0%), Johnson & Johnson (13.6%), Bristol-Myers Squibb (6.5%), Merck Sharp & Dohme (5.6%), Novartis (5.5%), and Amgen (4.9%), with other companies comprising the remaining 13% (Ruei-Min Lu, 2020).

The Innovative Approach Around Antibodies

mAbs have revolutionized treatment in many therapeutic areas. However, to continue this exciting trend, identification of new specific targets and improved mAbs are needed. This is a bottleneck in development of next generation therapeutic mAbs and failures in translating a target into a successful therapeutic mAb are much more frequent than successes. Although first generation antibody therapeutics focused primarily on specific binding to targets to elicit simple desired effects and establish antibodies as a valid class of drugs, they did not capitalize on all aspects of the antibody platform. Developing a novel drug based on therapeutic mAbs is far from a routine. It's a complex, multivariate problem where solutions often require engineering interconnected attributes of potential mAbs. Hence, more recent therapeutic mechanisms have been customized not only based on the

type of antigen or on a specific part of an antigen but also by antigen affinity, valency, and the paratope-epitope site. Moreover, use of different antibody subclasses allows for fine-tuning of pharmacokinetics and effector function and has introduced new proteins with new properties into the antibody framework.

While stronger antibody-antigen affinity can mean higher potency and clinical efficacy, higher antigen-binding potency does not always create a more efficacious therapeutic. For example, for mAbs targeting solid tumours, there is an ideal antigen affinity range and, if not in this ideal range, these antibodies may suffer from poor selectivity of tumour cells versus healthy tissue. In addition, higher antigen affinity can lead to accelerated internalization and elimination. Thus, the optimal antigen affinity varies on a case-by-case basis and must be optimized based on factors such as the type of tumour (i.e. patient sub-groups), the antigen concentration, and the kinetics of receptor internalization. Furthermore, mAbs targeting the same antigen may elicit different mechanisms of action by binding to distinct molecular features and thus may have different therapeutic uses and efficacy. For instance, trastuzumab and pertuzumab, both of which target Human Epidermal growth factor Receptor 2 (HER2) and act in a complementary fashion in the treatment of early HER2-positive breast cancer, have distinct mechanisms of actions. Pertuzumab binds to the extracellular domain II of HER2 and inhibits dimerization with other HER receptors, while trastuzumab binds to domain IV and prevents HER2 activation by extracellular domain shedding; however, it cannot prevent dimerization with HER receptors. In other extreme cases, mAbs targeting different epitopes on the same antigen can produce the opposite effect (*see for example*, CD28 and CD40; the former is useful for cancer applications and the latter for treatment of autoimmunity) (Dennis R. Goulet, 2020). Therefore, mapping the precise site of antibody-antigen binding and giving structural and essential information about the antibody binding site is needed to define the elicited response and to differentiate two mAbs targeting the same antigen.

Innovation around mAbs has only just begun and there is room to explore and to develop novel mAbs against new specific epitopes on a known target to bring us closer to achieving the goal of precision medicine, to address the resistance to current drug treatments and to understand target cross talk and regulation. The quest for new targets has often been more painful than rewarding for biopharmaceutical companies. These companies are extremely prudent when it comes to development of antibodies, focusing their large investments primarily on targets that are likely to work. Many challenges will have to be faced in the next decade to bring more efficient and affordable antibody-based drugs to the clinic.

The EPO Patentability Approach of mAbs: An Effective Way for Balancing Biologic Innovation and Competition in Europe?

The European Patent Office (EPO) should play a role in encouraging innovation, and more specifically in encouraging medical innovation while simultaneously allowing patients to access affordable and innovative treatments. Unfortunately, the current EPO policies and practices concerning patentability of antibodies do not help the pharmaceutical industry to promote new mAbs development in Europe. Indeed, when dealing with broad functional antibody claims, the EPO does not require that the scope of patent claims be commensurate with the inventor's actual and technical contribution to the art, as measured by what the inventor discloses in his/her application. Instead, the EPO grants antibody patent rights that are limited only by what is theoretically possible in view of the disclosed invention, e.g., a particular antibody that binds to a particular part on a known antigen, far exceeding the inventor's actual technical contribution to the art. However, the EPO should be mindful that a particular part of an antigen, defined by a specific feature, does not necessarily contribute to the properties of all antibodies covered by the claim. In other words, it's not possible to extrapolate, from a particular antibody found to have a specific property, other antibodies that would inherently have the same property. Patentees should thus not be allowed to pursue overly broad claims. If they claim the right to a range of antibodies, they must disclose enough information to enable a skilled person to make the full range of what is claimed without undue burden. This means a relevant range which affects the utility of the antibody.

Paradoxically, we are now in the following situation: on one hand, the EPO grants broad claims with only functional limitations that "reach through"¹ to future inventions (not yet invented) based on a known target, and on the other hand, the EPO rejects patents to mAbs to a known target that are new, structurally defined by their CDRs and non-obvious in view of known antibody structure by requiring a surprising property and, thus a threshold of inventive step beyond what is required in other technical areas.

Such EPO practice and trend of granting patents that claim a broad genus of antibodies that "reach through" to future antibody inventions based on an already known target without any antibody structural feature limitation into the claim, has significant real-world impact. First, it discourages innovation. Secondly, it has created an environment where all of the patentee's competitors working on the same known target may incidentally infringe such a patent and

¹ "reach through" claim : (see EPO Guidelines F-III-9): it's about claims directed to a chemical compound (or the use of that compound) defined only in functional terms (i.e. without any limitation by any structural feature) with regard to the technical effect it exerts.

be threatened with the risk of injunction. Facing these real infringement and injunction threats, competitors may decide not to develop new antibody drugs, suspend their competing development programs, or discontinue the sales of competing antibody drugs already approved. As a result, all innovative antibody drugs other than the specific antibody drug developed by the patentee would be excluded from the market, with a risk of creating a situation where finally only one antibody drug exists for one target protein, even if this protein was already known in the state of the art. Such a situation is not in the best interests of patients or competition. Indeed, it will contribute to limit patients' option for treatment of their specific disease, regardless of whether they adequately respond to or tolerate the treatment. Moreover, if we reach a situation where finally only one antibody drug will be developed for one target protein, and if this one antibody target protein is no longer available to the patients, then the patients will be left with no antibody treatment.

This contrasts drastically with what we can observe in the chemical field and more specifically in the field of small molecule drugs. Indeed, in small molecule drug development, fortunately claims for small molecules are not so broadly granted (see Markush type claims). Consequently, there is a plurality of competing small molecule drugs developed for one target protein or even a target protein specific mechanism. In addition, developing a plurality of competitive small molecule drugs for one target protein allows patients to select the drug most suitable for them, and is also a way to allow patients to switch from one drug to another if they are resistant to one drug or experience adverse effects. Moreover, the development of multiple competing small molecule drugs for a single target protein has reduced the risk of disappearance of a drug for the target protein.

The practice of rejecting patents claiming alternative mAbs defined by non-obvious structural features², follows a similar pattern of limiting patient choice and competition. The EPO does not generally consider that a unique structure can confer inventive step on an antibody to a known target. Indeed, even if an antibody comprising a unique sequence is novel, non-obviousness arguments are rejected by the EPO due to its requirement that a new antibody to a known target must demonstrate "an unexpected effect" relative to pre-existing antibodies to the same target for inventive step to be acknowledged. Once again this is different from the EPOs approach on small molecule patents.

Through these two examples we see how the current EPO's approach is inexplicably inconsistent and restricts patient choice and competition in the field of biologics. On the one

hand, if you are claiming a functional genus of new antibodies to a known target, you may be entitled to the full scope of this claim even if you did not invent all the compounds covered by this claim and if you have only one or a few examples in your description. On the other hand, for later generation antibody inventions, a unique sequence provides novelty and restricts the scope of the claim, but a demonstration of a new or surprising functional effect is required to show inventive step, the challenge here being that this must be demonstrated at the time of filing when the drug has not been given to patients and/or when the contribution to the art of previous publications has not been restricted to its real contribution or is very vague and unclear. Without rationale, the EPO seems too lenient when it assesses broad functional antibody claims (based only on functional features) and too restrictive when it comes to limited sequence specific antibody claims based on structural features. It is urgent to find the right balance. While patent examiners should not be influenced by public or stakeholder opinion in applying the patentability requirements set forth in the EPC to a given case, the EPO cannot disregard how its policies and procedures can, in certain situations, significantly curtail competition. In this regard, a delegation from the epi Biotechnologies committee and also a group of patent representatives from various biopharmaceutical companies met with the EPO in October 2019 to draw its attention to the impact of how the EPO is currently examining patent applications claiming antibodies, and more specifically how biopharmaceutical innovation in Europe may be impaired by its practices. Moreover, considering that one of the EPO's strategic focuses for 2020-2023 is to help boost innovation, two questions can be raised to the EPO to highlight the inconsistency issues discussed herein: (1) How does EPO intend to prevent the grant of overly broad functional antibody claims based on an already known target, which represent an increased risk of blocking the development of new therapeutic antibodies? And (2) how does EPO intend to apply a less rigid approach towards granting claims to a specific antibody defined by structural features, thereby allowing the applicant to obtain much needed exclusivity for its product to treat specific patient needs?

Both patents and competition are vital for the wellbeing of patients. Policy makers should be especially concerned about these EPO practices: isn't it time to reconsider and change these practices for the well-being of patients and competition?

References

Dennis R. Goulet, W. M. (2020). *Considerations for the Design of Antibody-Based Therapeutics*. *Journal of Pharmaceutical Sciences*, 109; 74-103.

Mantalaris, A. L. (January 2019). *The Increasingly Human and Profitable Monoclonal Antibody Market*. *Trends in Biotechnology*, Vol. 37, No. 1.

Ruei-Min Lu, Y.-C. H.-J.-C.-Z.-J.-C. (2020). *Development of therapeutic antibodies for the treatment of diseases*. *Journal of Biomedical Science*, volume 27, Article number: 1.

² Structural non-obviousness means that in the absence of any particular technical effect linked to the specific structure, the claimed antibody sequences were regarded as arbitrary selections which could not render the antibodies inventive over the prior art.



Case Law

Oral proceedings before the Enlarged Board of Appeal in case G1/19

N. Blokhuis (NL)

Oral Proceedings public by livestream

On 15 July 2020, the Enlarged Board of Appeal held oral proceedings in case G1/19, relating to the patentability of computer-implemented methods involving simulations. In view of the measures against the coronavirus that are currently in place, only the people directly involved were admitted into the oral proceedings room. A livestream was made available to ensure that the oral proceedings were public anyway. This livestream appears to have fulfilled a need, as about 1600 people registered in order to get access. In addition, EPO-staff could watch the oral proceeding through an internal tv channel. The livestream offered an excellent opportunity to see how oral proceedings at the Enlarged Board go for those of us who did not experience this

before. They are indeed somewhat different from oral proceedings in first instance and before a Technical Board of Appeal, and I found it nice to see this in a real life case without having to travel to Munich.

Importance of the case

In my opinion, G1/19 has the potential to become a highly important landmark decision for computer-implemented inventions in general. When I heard the arguments go back and forth during the oral proceedings, it occurred to me that this is not just a case about simulations. The issues underlying the questions and arguments go much deeper, maybe even to a philosophical level, marking a transition from “real-world technology” to “virtual-world technology”.

Question 1 of the referral addresses the issue of whether a computer-implemented simulation of a technical system or process solve a technical problem by producing a technical effect which goes beyond the simulation's implementation on a computer, if the computer-implemented simulation is claimed as such.

I noted that in the discussion the focus appeared to be on the part relating to “the computer-implemented simulation claimed as such” of question 1 of the referral. The Enlarged Board indicated that they interpret the “as such” to mean that here is only numerical input and output, and no relation to the physical world.

In a Communication preceding the oral proceedings, the Enlarged Board asked the question to what extent potential or virtual technical effects can be treated like “real” technical effects (i.e. technical effects in the physical reality). If the Enlarged Board in their decision would indicate that virtual and real technical effects should be treated in an equal way for the assessment of inventive step, then this would in my opinion be a significant step in the patentability of non-tangible inventions.

It is a question whether the Enlarged Board will take such a step, as it would most likely mean that the criteria with respect to the technical character of computer-implemented inventions will become less strict. However, on the other hand the question is also whether the EPO can afford to not take such a step.

As both the applicant/appellant and the representatives of the President pointed out during the oral proceedings, a



Nyske Blokhuis

computer-implemented simulation tool is in many technical fields the modern replacement of laboratory experiments. For those “old fashioned” methods of experimentation in the physical world, there is no discussion at all as to whether they have sufficient technical character to be patentable. So why would technical character, and therewith patentability, be denied for their modern day

replacements, which produce a similar kind of output: information about a technical system or process?

While G1/19 specifically relates to methods involving computer-implemented simulations, similar situations arise in other fields of computer-implemented inventions. We live more and more in a virtual world, and with the current situation in view of the corona virus, this already ongoing process of virtualisation is even accelerated significantly. Will our European patent system be able to keep up with this transition while at the same time safeguard the careful

balance in the EPC between what is patentable and what is not? In the documents relating to the Revision Conference of the EPC, we read that it was decided not to incorporate a definition of the word “technical”, as this might inhibit the patentability of future, at that point in time unforeseeable, technologies. It appears that we now are indeed at such a point.

I hope that the decision in G1/19 will reflect this point made in the Revision Conference, and that the decision in G1/19 will provide us with insights as to how the EPC should be applied in order to keep up with modern technologies as a catalyst and not an inhibitor for technological development.

Main topics and arguments as discussed during the oral proceedings

Below I will tell a bit about what was discussed during the oral proceedings, with the disclaimer that it reflects how I understood the case, the submissions of the applicant/appellant and the representatives of the President, and the remarks, comments and questions of the Enlarged Board.

During the oral proceedings, first the admissibility of the referral was discussed quite extensively. The Enlarged Board indicated that they may have some issues with the admissibility of the first part of Question 2 of the referral. This question was further referred to as Question 2A, and reads:

“If the answer to the first question is yes, what are the relevant criteria for assessing whether a computer-implemented simulation claimed as such solves a technical problem?”

The Enlarged Board indicated that they have doubts as to whether answering this question is necessary to answer the other questions. Furthermore, they doubt to what extent the position of the referring Board actually deviates from T1227/05. In T1227/05, Reasons 3.1.1, it is said that a simulation “may be a functional technical feature”, which in the provisional interpretation of the Enlarged Board does not mean that a simulation is by definition a technical feature – T1227/05 leaves room to conclude that it is not.

In addition, the Enlarged Board noted that asking for “a list of criteria” to assess whether a computer-implemented simulation claimed as such solves a technical problem is in fact a very broad question. They pointed out that the Enlarged Board has the option to reformulate a question of a referral.

Both the appellant and the representation of the President presented arguments in favour of admissibility of the entire referral. The appellant added that, in case the Enlarged Board would decide that the referral is inadmissible, it

would be welcomed if the Enlarged Board would at least make clear that T1227/05 has to be followed.

After a short break – without internal deliberation of the Enlarged Board – the first question of the referral was discussed. The first question of the referral reads:

“In the assessment of inventive step, can the computer-implemented simulation of a technical system or process solve a technical problem by producing a technical effect which goes beyond the simulation's implementation on a computer, if the computer-implemented simulation is claimed as such?”

There was some discussion about how the words “as such” had to be interpreted, but this discussion did in my perception not reveal any major or fundamental differences. The Enlarged Board indicated that they for now considered it to mean that the simulation only involved numerical input and output, without relation to the physical world.

The preliminary opinion of the Enlarged Board is that this question has to be answered positively, but they still have some questions. These questions have also been formulated in a Communication from the Enlarged Board of 22 June 2020, which can of course be found in the register.

The first question of the Enlarged Board to the appellant and the President is:

“Is the case law generally referred to as “COMVIK case law” (as summarised e.g. in T 154/04) suitable for the examination of computer-implemented simulations?”

The applicant/appellant summarised their submissions as “COMVIK must be followed until we have something better”. It is a good and useful decision, but it is not always suitable. The applicant/appellant explained that in their opinion, not only the technical effect of the invention should be considered, but also the technical purpose.

The second question the Enlarged Board asked was how COMVIK should be applied for claims relating to computer-implemented simulations. The Enlarged Board asked three in my opinion very interesting sub-questions to this general second question. These sub-questions are:

- *To what extent can potential or virtual technical effects be treated like “real” technical effects (i.e. technical effects in the physical reality)?*
- *What are the differences between simulations and their constituent parts (in particular, models represented by equations and algorithms to solve such*

equations) on the one hand and “schemes, rules and methods for performing mental acts” as well as “discoveries, scientific theories and mathematical methods” (as referred to in Articles 52(2)(a) and 52(2)(c)) on the other hand?

- *To what extent can purposes of a simulation be considered for the assessment of inventive step if such purposes are not reflected in the claim?*

With respect to the second sub-question asked by the Enlarged Board, the applicant/appellant referred to projects carried out by two of the members of the Enlarged Board when they studied at the Munich University of Technology. In these projects, mathematical methods such as graph theory were used to improve a technical system. The applicant/appellant argued that there could be no doubt that these were technical projects. Numbers in simulations are not just numbers, they represent technical information.

The third sub-question that was asked by the Enlarged Board was:

“Does it matter whether the simulated system or process is technical or whether the simulated system or process is based, in part or entirely, on human behaviour (which may be reflected, for example, in game theory models) or on natural phenomena?”

With respect to this question the applicant/appellant stressed again the importance of the purpose of the invention. They referred to an example in which a simulation is used to forecast the weather. The weather is not a technical system, and reality cannot be influenced by the simulation, only be better understood. However, if such a simulation system is used to control window blinds, the system becomes technical. The same applies to this case: the simulation of what goes on in the building is technical. It is not relevant that human behaviour is involved in this simulation.

The representatives of the President pointed out that a simulation which has a technical purpose is generally based on technical considerations of a technically qualified person working in the technical field of the simulation. Even though the technical effect of the simulation may not be tangible, the technical considerations of the this technically qualified person make the simulation technical.

Further, the representatives of the President argued that simulation and experimentation are actually two faces of the same coin. Both result in generation of information. So why should inventions related to simulations be treated differently from inventions related to experimentation?

In addition, building the model on which the simulation is based may be close to a mental act, but a simulation method is not the same as a modelling method. If the model is used for a technical purpose, this can contribute to the technical character of the simulation method. Simulations are not merely a replication of the model inside them, they are a replication or alternative for experiments and observations. Even if the core of the simulation is regarded as a mathematical model, carrying out the simulation by feeding data about physical parameters of a technical system makes that the simulation strays away from pure mathematics and into the realm of the physical world.

However, in the opinion formulated by the representatives of the President, the claims must still be limited by including a technical means such as a computer. In addition, in line with T1227/05, the claims should be limited to an adequately defined class of technical systems.

After the lunchbreak, the questions 2 and 3 of the referral were discussed. The Enlarged Board presented their preliminary opinion on the second part of question 2, saying that it would not be a sufficient condition that the simulation is based, at least in part, on technical principles underlying the simulated system or process. With respect to question 3 of the referral, the Enlarged Board's provisional opinion is that there should be no special treatment when the simulation is claimed as part of a design process. The answers to questions 1 and 2 would therefore remain the same.

The discussion of questions 2 and 3 of the referral was rather short, because many of the arguments were already presented in the discussion of question 1 of the referral.

The applicant/appellant argued in respect of question 2 that the technical purpose of the invention should be

a highly relevant criterion in order to determine whether a computer-implemented simulation claimed as such solves a technical problem.

They also noted that a lot of emphasis is put on the phrase "functional technical feature" of Reasons 3.1.1. of T1227/05. The applicant/appellant hopes the Enlarged Board will in their decision shed some light on what this phrase actually means.

At 14hrs, the Enlarged Board interrupted the proceedings for deliberation on the question whether the Enlarged Board would have more questions or issues to discuss. As this turned out to be not the case, the oral proceedings were closed at 14:15 hrs.

Conclusion

The discussions in the oral proceedings in G1/19 before the Enlarged Board of Appeal of 15 July 2020 made clear that there is a serious need for clarification with respect to the patentability of computer-implemented inventions, in particular computer-implemented simulations. Technical Boards of Appeal may write beautiful phrases like "functional technical feature" or "an adequately defined class of technical systems", but the field would welcome more specific guidance to work with in daily practice.

Hopefully the Enlarge Board will give us new insights, clarifications and explanations, and the grey area of computer-implemented inventions will become a little less grey after the decision in G1/19 is published.



Book Review

A critical review: The EPC.App

A combination of an electronic platform and a printed book

G. Wesela-Bauman (PL)

The EPC.App arrived in 2018, offering a new solution for candidates preparing for the EQE and for already-qualified European Patent Attorneys.

This review is to provide information about what the EPC.App is and what it actually offers to the community today. Also, I will present my view on aspects in which the EPC.App stands out as well as where some improvements might be introduced. In the review, I will also include observations and hints on how I adapted it to my preferences.

Overview

The EPC.App consists of an electronic web-based platform and of an independently distributed printed book.

The platform and the book contain the same amount of information, i.e. the EPC, additional regulations and the authors' comments (i.e. the commentary). There are, however, distinct differences in using the platform and the book.

As a consequence, this review will be separated into three parts: a part devoted to the commentary in general, to the platform and to the book.

The commentary

In the commentary, each article is followed by its implementing rules. The typical layout of the commentary is that an article / rule is placed on the left-hand side while the right hand is reserved for comments. Comments are also placed below each provision. The upper-right

corner is reserved for putting references to related articles, rules, GL or CLBA. The layout looks clean and well-structured.

In articles, rules and comments, selected words or phrases are underlined to get a quick recognition of the content solely on the basis of these words or phrases. It requires some time to get a sense of this system, but once you understand it, the system helps you to scan the content for relevant information. Time limits, fees, legal consequences or language-related information are specifically highlighted using distinct colours and, thus, can immediately be identified without reading of a whole provision or a comment relating to it.

Comments on the right-hand side are providing information helping in understanding the provision. Also, on the right you will find legal consequences or remedies. Below the provision, you can find more detailed comments together with relevant case law on various legal aspects. Comments are written like notes and, thus, they are condensed and to the point.

The case law is usually presented in the form of a headnote followed by comments to the decision. The decisions seem to be selected based on their importance to a given provision.

The layout and the writing style seem to be uniform throughout the commentary. There are exceptions and some articles are presented in a slightly different style than the others, e.g. comments under Art. 83 are in a single column whereas comments under Art. 84 are in a double-column layout. However, when jumping from article to article, each time the layout actually helps in understanding and using a provision.

It is clear for me that the commentary is source-based and, as often as possible, reproduces or quotes headnotes of decisions, OJs or parts of the GL. This allows a reader to fully understand the law exactly as it was formulated by the EPO.

The authors indicate on their webpage that the EPC.App does not contain all information available. I think this deserves some comments. For sure, the commentary does not include the PCT as there is the PCT.App devoted to this. The EPC.App does, however, include e.g. the Rules of Procedure of the (Enlarged) Boards of Appeal, various OJs, all protocols or even the London Agreement. Careful revision of the commentary revealed that certain case law could be added together with GL

passages. I would also add further links or comments on certain aspects which are more relevant to my practice. However, the content of this edition of the commentary already seems to be pretty saturated. For sure, the commentary is in continuous development.

In summary, it is clear that on commentary is focused on providing information in easy and fast way. The layout helps in orientation and searching for legal basis. Despite lacking some case law, GL passages or comments, the commentary can be used in everyday work or during the exam as it already contains the relevant information.

The platform

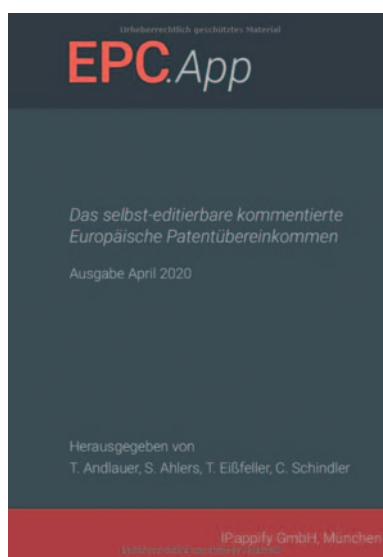
The platform is something I was really looking forward to test as it gives you a possibility to make your own annotations, notes, to add case law, GL passages or to even hide the comments made by the authors if that is needed. A user can also add own colour markings to the commentary to highlight important information or information on time limits, fees, legal consequences or language requirements. By doing so, you can build your own source of information about the EPC.

In the platform, annotations are connected to other elements of the commentary, i.e. paragraphs of articles and rules or comments. It follows that this is a platform of interconnected elements and not an Excel-type database.

It surely requires some training to use the platform efficiently. However, even a beginner will not have problems with modifying the content of the commentary by using the platform.

There is no history of changes made on the platform and there is no "reverse" button to undo already made changes. So, if you delete your own annotation, it will be deleted permanently. However, you can make yourself a backup version of your database using the pdf-generator. Generated pdfs are stored on the server and so they can be used as a history and a backup of data that you put into the platform.

There are various options for pdf generation. Enough to optimise the type of pdf you would like to obtain (i.e. optimized for page number or for clarity), but not too complicated to make it difficult to obtain a useful pdf. The generation usually takes around 6 minutes and it is made on the server. After the generation process is completed, you can download the pdf and print it. Pdfs



are also important as the platform seems not to have a full-text search engine. Thus, if I needed to find something, I used a generated pdf for searching.

During my tests, the platform sometimes revealed lags¹. However, recently the authors published information that the database was optimised for better performance and to reduce lags. Since the update, I have not observed lags. This indicates that the platform was not optimized before and that the problem should now be resolved.

The platform is web browser based, so it can be used on any device (including cell phones). For example, I used it while traveling to check something on an Android-based cell phone. The capacity of the cell phone and the 4G bandwidth were more than enough to use the platform for checking the legal basis. This also means that in case of a malfunctioning computer, you are not losing access to the platform and your annotations.

Having a subscription allows for obtaining immediately benefits from updates. That includes twice a year updates to the commentary and new functions implemented to the platform. Moreover, added annotations are retained after any update to the commentary, so that they will be exported to a newly created pdf afterwards.

In short, the platform is one of the key aspects of the EPC.App. It provides you with the commentary and a possibility to add, optimise its content or export as a pdf, suitably to your needs. While it may still lack some functionalities, there are methods to achieve the desired results and the platform is ready for sustaining your personal database relating to the EPC.

The book

The book is available from Amazon and it seems to be printed at a location depending on where it is ordered. Thus, there was no problem to receive a book during the time of the lockdown.

It seems that the book is optimized to be used at the EQE with a minimum effort invested in adaptation after

being bought. The book, however, does not have an index of terms and, instead, it relies on two tables of contents (one for overview and one which is detailed) and on an index of legal provisions and decisions for searching for legal basis. Pages are marked on the edge so that you can find a relevant part of the EPC. It may require a bit of practice to use this type of system for orientation in the EPC, but having an implemented system saves a lot of time usually spent on designing and making your own system.

Words or phrases in the provisions and the comments are underlined with black-and-white markings. Therefore, they are not as transparent as the coloured ones used in the platform, but this makes the book more affordable.

The book has a handy format and it can easily be placed on the desk next to an EQE D1 paper. The paper used for printing the book is of good quality, so the pages should survive even heavy use.

In summary, the book is suited for use during the exam and requires minimum modifications after buying. The quality of the book is good and the black-and-white markings, which may be not as transparent as the coloured ones, contribute to effectiveness of the book during the exam and to a balanced cost of the book.

Conclusion

The EPC.App is built around a uniform idea of providing information about the EPC in a fast, condense and adaptable way. While it is still being developed further², it already offers a mature solution for EPC users. The printed book seems to be essentially ready-to-use at the EQE exam and the electronic platform is a more sophisticated solution providing a long-term support for European Patent Attorneys in efficiently keeping track of EPC updates.

¹ It should be noted that the tests were made also during the time of the pandemic and, thus, during a time when a lot of computer resources were used for running normal businesses.

² It should be noted that the authors act towards critical opinions and offer discounts for those providing feedback. I already sent a pack of my own comments and suggestions, including the ones presented in this review.



Educational Events

epi has successfully started with online learning

B. van Wezenbeek (NL)

In view of the restrictions that were introduced because of the Covid19 pandemic, **epi** has not been able to continue with its planned, in-person educational activities in the field of permanent education. This meant that all of the seminars that were planned for 2020 had to be cancelled or postponed. It is sincerely hoped that these seminars may be organized again, because **epi** is of the opinion that in addition to the educational aspects of these seminars, also the informal, networking aspect of meeting with fellow patent attorneys is important.

Nevertheless, in order to make training available in a flexible and efficient way, and to provide meaningful education to our members and students, **epi** has started to provide online training. Besides the successful **epi** "Life of a patent" online course (supported by the EPO), the first series of **epi** webinars was launched. These are based on the successful 'Case Law' seminar series. For this, four of the topics that also have been presented in these Case

law seminars were chosen and adapted for a webinar presentation of about 45-60 minutes. In view of the fact that our members did not have access to any educational events in the second quarter of 2020, **epi** decided to offer these webinars for free.

This first series of four webinars has now been held. Chris Mercer started off by explaining the present situation on plausibility which appeared not only of interest to patent attorneys working in the chemistry and life sciences fields, but also to those working in other fields. Second was the topic of priority, presented by Leythem Wall. Priority has been discussed heavily in the recent case law of the boards of appeal and G 1/15 solved a long pending question on partial priorities. Leythem also presented the third topic on clarity and showed the application of the decision G 3/14 in the later case law. Thomas Pott finished the series with a presentation on disclaimers, overviewing the decisions of the Enlarged Board G 1/03, G 2/10 and G 1/16.

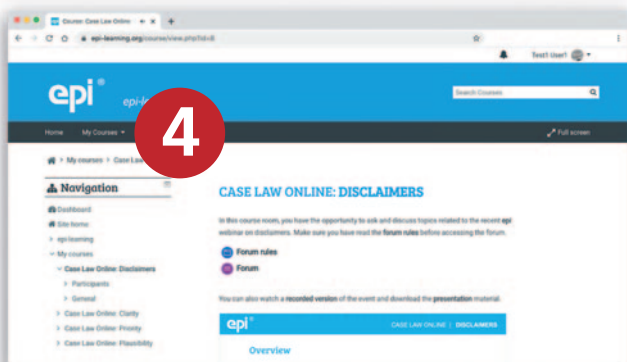
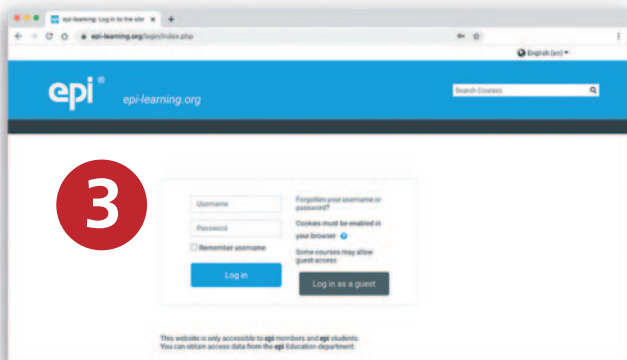
The interest in these lectures exceeded our expectations by far. Where, normally, webinars are held in the presence of a maximum of 100 participants we had more than 500 participants and because of this, it was decided not to provide the opportunity to ask questions or to open discussions on the chat. Instead, **epi** has now created a website where the recordings of these webinars may be reviewed and where, for each webinar, a separate forum is available. The forum is moderated by the speaker on the subject (at least for the first time), and questions on the subject may be raised to start a discussion on the topic.

This website, www.epi-learning.org, is planned to be open for all **epi** Members and **epi** Students. Any member may ask for being registered to the site with his/her 8 digit membership number (check your invoice on the

yearly subscription fee if you have forgotten this number) and choose a password. For **epi** Students it is important to write the "A" of the student membership number in lower case. After logging in you will be able to access the recordings of the webinars and the corresponding forum. In case of any queries, please contact education@patentepi.org.

Lastly, because of the overwhelming success of these webinars, the ongoing restrictions due to the Covid19 situation, and as an alternative is desired to the normal educational activities, **epi** is intending to continue the series of webinars. It is intended to organize two webinars on novelty ('novelty of selection inventions' and 'the importance of the skilled person in novelty') in the third quarter and further webinars in the fourth quarter of 2020. Of course, these will be advertised timely.

How to access the new e-learning platform



- 1 Go to www.epi-learning.org
- 2 Log in
- 3 To do so, enter your **epi** Membership/Student membership number as your user name and the preliminary password sent to you by email (students: please write the "A" in lower case). Should you not have received this email, please click on "Forgotten your username and password". If this does not work, please contact education@patentepi.org.
- 4 In the menu "My Courses", you find all course rooms currently available for you.

The CEIPI, the Covid-19 and the continuity of the training offer preparing for the European qualifying examination 2021 and the diploma Patent Litigation in Europe

The CEIPI has been recognized for many years for the excellent quality of its courses preparing future European patent attorneys for the European qualifying examination¹ and for its training leading to the diploma Patent Litigation in Europe², which is designed for European professionals with experience in the national and European patent system who wish to broaden and to update their knowledge of national and European patent litigation procedures.

In the context of the COVID-19, the CEIPI has set up and been actively involved into several distance learning projects, in order to maintain its training offer in the field of intellectual property despite the current public health crisis.

However, it is our conviction that, in order to offer to our participants high-quality training, it is necessary to give priority to direct exchanges and classroom training, be it for the courses preparing for the EQE 2021 or for the diploma course in Patent Litigation in Europe. In addition to particularly well-adapted course contents, classroom training makes it possible to meet colleagues and counterparts from several European countries. Face-to-face training also allows maximum interactivity

between participants and tutors, who are all major actors in the field of European patents or patent litigation: French or European professional representatives from private practice and industry, staff of the departments of first instance of the European Patent Office and of the Boards of Appeal, attorneys at law, judges or corporate lawyers.

Taking into account these reasons, the CEIPI has decided to maintain the above courses as classroom training.

However, in order to anticipate any possible further evolution of the Covid-19 within the forthcoming months, the CEIPI has set up alternative training solutions should the maintain of classroom training finally not be possible due to new sanitary restrictions. In this case, the training sessions would be organized as distance learning courses, in order to guarantee the continuity of the training. Should enrolled participants not be able to attend the classroom training because of later sanitary restrictions applying in their country, they would get the opportunity to connect to the classroom training remotely, through a distance-learning platform.

The CEIPI looks forward to meeting many of you during the academic year 2020-21 in order to offer you high quality training courses matching your needs and expectations.

LE CEIPI, le COVID-19 et la continuité des formations préparant à l'examen européen de qualification 2021 et du DU Contentieux des Brevets en Europe

Depuis de nombreuses années, le Centre d'Etudes Internationales de la Propriété Intellectuelle est reconnu pour l'excellente qualité de ses formations préparant les futurs mandataires européens à l'examen européen de qualification¹, ainsi que pour la formation diplômante DU Contentieux des Brevets en Europe², qui

s'adresse aux professionnels européens disposant d'une expérience dans le système national et européen des brevets et souhaitant approfondir et actualiser leurs connaissances dans le domaine des procédures nationales et européennes de contentieux des brevets.

Dans le contexte du COVID-19, le CEIPI s'est activement engagé, au cours des derniers mois, dans l'enseignement à distance, afin de maintenir intact son offre de

¹ <https://patentepi.org/r/info-2003-01>
² <https://patentepi.org/r/info-2003-02>

¹ <https://patentepi.org/r/info-2003-03>
² <https://patentepi.org/r/info-2003-04>



CENTER FOR INTERNATIONAL
INTELLECTUAL PROPERTY STUDIES

formation en matière de propriété intellectuelle, malgré la crise sanitaire.

Toutefois, nous sommes convaincus que, dans l'objectif de fournir à nos participants des formations de très haute qualité, il est nécessaire de privilégier les échanges et l'enseignement en présentiel, tant pour l'offre de cours de préparation à l'EEQ 2021 que pour le DU Contentieux des Brevets. Outre le contenu pertinent des cours, la formation en présentiel facilite les rencontres avec des homologues ou collègues français ou étrangers. Elle permet par ailleurs de favoriser l'interactivité et les échanges entre les participants et les intervenants, qui sont tous des acteurs incontournables en matière de brevet européen ou de contentieux des brevets: conseils en propriété intellectuelle, mandataires agréés travaillant dans l'industrie ou au sein de cabinets reconnus, agents des ins-

tances du premier degré de l'Office Européen des Brevets ou des chambres de recours, avocats, juges ou juristes d'entreprise.

C'est pour cela que le CEIPI a décidé de maintenir l'ensemble de ces formations en présentiel.

Sachant toutefois qu'il est impossible d'anticiper les évolutions du Covid-19 pour les mois à venir, le CEIPI a évidemment anticipé des solutions alternatives de maintien de son offre de formation au cas où un déroulement des enseignements en présentiel ne serait pas possible à la suite de nouvelles consignes sanitaires. Ainsi, les séances de formation concernées seraient dans ce cas assurées en distanciel, permettant de cette façon la continuité des enseignements proposés. De même, si certains participants ne pouvaient pas se déplacer à la suite de restrictions sanitaires touchant leur pays, il leur serait alors possible de se connecter aux formations en présentiel via une plateforme d'enseignement à distance.

C'est pourquoi le CEIPI vous attend nombreux pour la rentrée universitaire 2020/2021 afin de pouvoir vous offrir des enseignements de qualité répondant à vos besoins et attentes.

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Committee Reports

Report of the Nominations Committee

C. Quintelier (BE)

The Nominations Committee would like to thank all the **epi** Council members who were approached by the Committee for standing as an **epi** Board member and also them who, on their own initiative, contacted the Committee for their positive cooperation with the Nominations Committee.

We noted a clear enthusiasm from those who were approached to stand as a candidate, and also from those who decided not to stand as a candidate we got a clear answer on what motivated their decision.

The list of candidates for the **epi** Board election is available via the accumulated file and we thank all the candidates for having sent the necessary data to the **epi** Secretariat. We also thank the **epi** Secretariat for their extensive support.

The Nominations Committee also noted some problems for what concerns the scope of their function. We also are of the opinion that some guidelines and/or rules could be drafted with respect to the organisation of the election and the tools available to the candidates to express their view to the Council members. A discussion between the Nominations Committee and the By-Laws Committee on this purpose would be appreciated.

Report of the Disciplinary Committee

P. Rosenich (LI), Chair

Due to the Covid-19 pandemic we had to cancel the first (inaugural) meeting of the new Disciplinary Committee ("DC") that had already been scheduled to take place in Lisbon 11th-12th of June 2020.

Initially scheduled to take place in Glasgow on 11th and 12th of May 2020, the **epi** C88 Council meeting was held on 29th of June 2020 by video conference. On this occasion the election of the members of the Disciplinary Committee took place. All candidates from their respective countries were elected by acclamation.

In view of the smooth operation of the e-Council meeting the Disciplinary Committee decided to hold its inaugural meeting shortly after this meeting also by video conference and set the date for the 22nd of July 2020.

At this meeting, the only new member of the DC, Ms Lenka Litváková, representing SK in the DC, was introduced to the other members of the committee. Furthermore, all of the Officers of the past DC were re-elected unanimously by the members of the new DC.

The DC is an important body of the **epi** and the European Patent Organization and its passionate and dedicated Members do their very best to help with their work to maintain the high reputation our profession enjoys worldwide. The DC is organized in a number of Chambers which form the first half of the first instance of the Disciplinary Bodies of the European Patent Organization and shall consider any alleged breach of the Rules of Professional Conduct by an **epi** Member which is brought to its notice in writing.

Members of the DC need to have very good knowledge of the European Patent Convention, the Regulation on Discipline, the **epi** Code of Conduct and the Additional Rules of Procedure of the Disciplinary Committee and of the other Disciplinary Bodies of the European Patent Organization. Further, it is of advantage to have experience in European or national disciplinary proceedings. Within DC training is provided and more experienced colleagues support new DC-Members. When considering complaints the DC-Chambers are committed to treat Defendants in a fair manner and to render just and correct verdicts. By doing so the DC does not only comply with the applicable law and takes into account the interests of Complainers and Defendants but also contribute with its work to the good standing of the **epi** and its Members in the public and vis-a-vis the European Patent Office and the Administrative Council of the European Patent Organization.

The Chambers of the previous DC have been successfully finishing 16 cases since the last inaugural Council Meeting in Munich (on 24 April 2017),

- 8 cases have been forwarded to the Disciplinary Board that means that the Chamber found these cases quit serious.
- 2 cases have been decided against the Defendant
- 6 cases have been rejected as unfounded.

In one case the Chamber authorized the President of the **epi** to publish the decision.

As we are not automatically informed if and when an appeal is filed against a decision of the DC, we cannot provide an exact number. However it seems that not more than one or two of the above named decisions 16 decisions have been appealed.

Since the last Council Meeting, in Lisbon fall 2019 we have received 2 new cases.

Seemingly the Covid-19 crisis was associated with a considerably decreased number of new complaints submitted to the DC.

Despite this unprecedentedly low number of new complaints, the Chambers of the DC have been fully operative during the last months and luckily no "Covid-19" incidences have been reported from the DC Members.

However, we can see this historically low number of complaints also as evidence of the positive impact the work the DC had onto the professional conduct of the Members of the **epi** in the last few years.



Paul Rosenich

The professional contacts between the Disciplinary Board of Appeal and the Disciplinary Board and the DC are friendly and operational useful.

In the last period also discussions between the Presidium and the DC have been successfully concluded.

For any questions the Officers of the DC and its Members may be contacted directly.

Report of the epi-Finances Committee

M. Maikowski (DE), Chair

The 84th Meeting of the **epi**-Finances Committee took place by video conference on 8 June 2020. The Treasurer, Deputy Treasurer and Internal Auditors attended as invited guests.

The Treasurer provided an interim financial report.

The coronavirus pandemic has significantly impacted the activities of **epi**. In particular there have been no physical meetings of Council, the Board/Presidium or committees of **epi** since mid-March 2020; and all physical educational meetings have been postponed. Also the performance of some investments has deviated from expectations.

Some expenditure on planned meetings unavoidably was incurred before restrictions on movements and meetings were imposed. Whenever possible these costs have been carried forward to apply to postpone meetings when they take place.



Michael Maikowski

Both expenditure and income have reduced significantly compared with budgeted levels for 2020. The net effect however is forecast to be a net surplus of approximately €32000 for the year, compared with a predicted deficit

of approximately €65000 based on a full programme of activities.

The Committee notes with approbation the actions of the Treasurer in minimizing risks to the financial position of **epi**, and expresses its full support.

The Treasurer requested the opinion of the Committee on the basis for preparation of the 2021 budget. There are many more variable factors than is usually the case. The Committee recommends that for the time being the Treasurer prepares the budget on the basis of normally applying assumptions.

Probably there will be greater use of video meetings, e.g. of committees, in the future. If this proves to be the case the budget assumptions can be adjusted accordingly.

Increased use of video meeting facilities will require increased IT expenditure. The Committee reviewed, and approves, the Treasurer's proposals in this regard.

The Committee discussed financial aspects of the decision to cancel the 2020 EQE. The Committee suggests a supportive gesture such as free registration for an **epi** seminar for those candidates who had registered for the EQE before the cancellation was announced.

The Committee discussed a proposal by the Internal Auditors to consider moving the financial year end of **epi** to 30 June. The Committee recommends maintaining a 31 December year end; and recommends keeping this subject under review.

Following discussion the Committee recommends that the Treasurer maintains the current practice with respect to double payments of the annual subscription. These are rare nowadays in any event.

The Committee strongly recommends the prolonging of the existing fidelity insurance and the purchasing of the "directors and officers" insurance for employees and Members of **epi** undertaking work on behalf of the Institute. This topic is the subject of research in the Secretariat.

Report of the PCC

G. Checchacci (IT), Chair

At the beginning of this strange year 2020, the new Council of **epi** has been elected. Unfortunately, for the reasons we all know very well, this new Council could only “meet” online, and it cannot be excluded that this format will have to be repeated in the future. Nevertheless, whatever the format of the meetings, the Council is active and will continue to be active, addressing the tasks that it is expected to address.

Among these, an important step is the election of the members of the various committees (except the Disciplinary Committee, already elected), during an autumn meeting of the Council. The committees are an essential part of the activity of **epi**, and are open to all **epi** members, on a voluntary basis. Right in these weeks, the nomination process is open and **epi** members can present their nomination to any of the committees, in view of the election.

This suggests spending few words about PCC, the committee I have had the honour to chair for five years, in order to give an idea of what an **epi** member can expect if elected in PCC.

Like for any committees, **epi** members can find the official definition of the activity of PCC in the Terms of Reference¹.

In a nutshell, PCC assists **epi** bodies (the President, the Secretary General, the Presidium, the Board, the Council, other committees and ultimately individual **epi** members as well) for any issues relating to conduct, obviously with the exception of formal disciplinary proceedings.

Thus, in the recent years PCC has provided advices to **epi** members who were in doubt about the admissibility of some actions they intended to perform, thus helping them in avoiding behaviours that may have infringed the Code of Conduct.

PCC has prepared and presented to the Council a proposal for amending the Code of Conduct in view of the possible entry into force of the UPC agreement. Unfortunately, the project needed also an amendment to the Regulation on Discipline, which can be amended only by the Administrative Council of the European Patent

Organization. Thus, although the whole project is ready, it is still stuck outside **epi**, despite **epi**'s efforts at any level.

PCC has also studied some specific issues in the Code of Conduct and has almost completed a proposal for amendments to improve easy and smooth application of the Code of Conduct. Once finalised, the proposal will be presented to the Council for adoption.

Besides, a restricted Working Group within PCC has assisted the Presidium in conduct matters, providing opinions and support as requested.

In the next three-year term, PCC will of course continue all these activities, as a whole committee and/or in Working Groups. In particular, the revisions of the Code of Conduct (the one related to UPC and the one related to some specific issues) should be hopefully concluded. In the meantime, other issues will have to be considered for possible amendments.

Besides, PCC will have to give attention (if not priority) to an important project defined in principle already years ago but still to be implemented: to have an instrument to spread among all **epi** members the knowledge of the advices given to individual members who filed their requests. Also, PCC should try to implement -in cooperation with PEC (Professional Education Committee)- some kind of training in deontology matters, again to improve the knowledge of the Code of Conduct among **epi** members.

And other challenging projects are just waiting for the new PCC.

All of this requires energies. Present PCC has invested a lot of energy in defining and pursuing these plans. Next PCC will have to invest even more energy, to complete these plans and to define others.

Three years ago, not all EPC member states were able to have candidates for PCC, and some countries had no members in PCC. I sincerely hope this will not happen this year too: the contribution by all countries is important to ensure that PCC can benefit from all the different national experiences.

¹ <https://patentepi.org/r/info-2003-05>

Report of the Committee on Biotechnological Inventions

A. De Clercq (BE), Chair

Patentability of plants and animals – G 3/19

Enlarged Board of Appeal Opinion **G3/19** was issued on 14 May 2020 with Press release. The opinion¹ explicitly abandoned earlier decisions in cases G 2/12 (Tomatoes II) and G 2/13 (Broccoli II), it held that plants and animal products exclusively obtained by essentially biological processes are not patentable.

The referral was made by the President of the EPO after the decision of 5 December 2018 by Technical Board of Appeal 3.3.04 in case T-1063/18². The Technical Board of Appeal had found the new Rule 28(2) EPC, excluding plants or animals exclusively obtained by means of an essentially biological process from patentability, to contradict Art 53(b) EPC and its interpretation thereof by the Enlarged Board of Appeal in cases G 2/12 and G 2/13.

The Enlarged Board considered the referral admissible and advanced a new interpretation of Art 53(b) EPC in line with the amended Rule 28(2) EPC and related develop-

ments. It noted in this regard that a particular interpretation which has been given to a legal provision can never be taken as carved in stone. Applying a dynamic method of interpretation, having regard to the wording of the new Rule 28(2) EPC and the *travaux préparatoires* for that Rule, the Enlarged Board



Ann De Clercq

accepted that it was the EPC legislator's intention to establish a particular interpretation of Article 53(b) EPC, which is that plants or animals exclusively obtained by means of an essentially biological process are excluded from patentability.

The **epi** had suggested in its amicus curiae brief³ to establish transitional measures to protect the legitimate expectations established by the Enlarged Board's earlier decisions. The Enlarged Board noted that its new interpretation of Article 53(b) EPC has no retroactive effect on European

patents containing such claims which were granted before 1 July 2017, when Rule 28(2) EPC entered into force, or on pending European patent applications seeking protection for such claims which were filed (or have a priority filing date) before that date.

This decision has a high impact and has been commented on by many practitioners. The **epi** Biotech Committee will continue to discuss the full impact of this opinion.

Upcoming Amended Guidelines for Examination Biotechnology – SACEPO WPG meeting on Biotech Guidelines 9 June 2020

The Biotech Committee has been represented in a discussion of a proposed draft for amendment of the Guidelines for Examination at the SACEPO Working Party on Guidelines special meeting on Biotech on 9 June 2020, Ann De Clercq (Chair **epi** Biotech) and Heike Vogelsang-Wenke (**epi** Vice-President), Anette Hegner and Martin Wilming (both appointed SACEPO WPG members) attended for **epi**.

Extensive amendments to the Guidelines relating to biotechnology were proposed by the EPO to **epi**. The topics mainly relate to:

- Plant biotech: G3/19 and disclaimers
- Antibodies
- Diagnostic methods
- Exclusions (stem cells)
- Interpretation of terms such as identity and similarity in relation to amino or nucleic acid sequences

epi filed their comments in June and discussed at the meeting. The EPO took account of a major amount of the comments by **epi** and thanked for the constructive work in a short time frame. **epi** biotech appreciates the mutual discussion.

User consultation: The minutes of the recent SACEPO WPG meetings reflecting the consultation results will be published on the EPO website.

Guidelines: The draft Guidelines will be sent to the members of the SACEPO WPG by the beginning of August at the latest. The members are expected to send their comments on the draft Guidelines by **15 September 2020**.

¹ <https://patentepi.org/r/info-2003-06>

² <https://patentepi.org/r/info-2003-07>

³ <https://patentepi.org/r/info-2003-08>

epi Biotech Committee will discuss the new draft document when it arrives and schedule a digital meeting.

The comments including any particular Biotech-related issues will be discussed in the regular SACEPO WPG meeting on **27 October 2020**.

The EPO thanked **epi** for their proposals and comments and all participants for their support in all aspects, including evaluating the user comments. The good collaboration has eased the EPO's work to a great extent and ensured that the meeting could be conducted in an efficient manner.

Meetings

The Committee will hold digital meetings to discuss the further the amended Guidelines for Examination proposal of the EPO by end August and the yearly committee meeting will be scheduled.

The Chair Ann De Clercq also joined the digital EPO VP1 meeting on 10 July 2020. It was announced that meetings will take place again with DG1 concerning biotech and other topics.

Report of the Online Communications Committee (OCC)

J. Gray (GB), Chair

1. Introduction

OCC remains very busy across several fronts, particularly with new topics arising as a result of the Covid-19 crisis. On 8 April 2020, OCC conducted its own meeting successfully by StarLeaf video conference.

2. Covid-19, ViCo and Council

As OCC chair, I found myself volunteering to help the Board and secretariat organise an **electronic Council meeting** under the constraints of the **coronavirus crisis**. This involved a lot of detailed work with the Presidium, with the Bylaws Committee (BLC) and the secretariat staff, as well as external suppliers such as eVoting.biz.

Another additional burden from the Covid-19 crisis was the sudden prominence of **videoconference** in the eyes of the EPO (see below). Cancellation of the **EQE** has led to a program to create a digital version of EQE. OCC members stand by to assist **epi** colleagues in the Supervisory Board as this project develops.

3. SACEPO-EPP, TOSC, SACEPO Meetings

As a bonus from the Covid crisis, attendance at EPO meetings such as TOSC, SACEPO etc. becomes much more practical in the online world, and ad hoc meetings become practical. This is a very welcome development.

OCC representations continue to be guided by the positions confirmed by Council in Helsinki, November 2018, and which formed part of **epi**'s submission to the EPO Strategic Plan consultation.

The SACEPO-EPP group grows into a well-functioning feedback forum, albeit focused on future developments. We get

to know well the new IT leadership at the EPO. We get to share experience and input from those **epi** members who attend as representatives of different bodies, and representatives of the growing EP paralegal network.

The SACEPO-EPP meeting reviewed and applauded developments to manage better planned **interruptions of the EPO online systems**. This is still evolving but already 2019 was far better managed than 2018. The timing of outages has already been improved, and the communication and information will be subject to further developments. OCC offers to act as a channel for urgent communication to users, and this has been heard by EPO.

Improvements in information systems including **Register Plus** and **Espacenet** were also noted and applauded. Links between My Files and the register now work properly. Prior art documents within opposition files will now



John Gray

be individually labelled at least in some form, rather than the generic *"Non-patent literature cited during the opposition procedure"*.

<input type="checkbox"/>	03.02.2020	Citation in opposition procedure - 001
<input type="checkbox"/>	03.02.2020	Citation in opposition procedure - 002
<input type="checkbox"/>	03.02.2020	Citation in opposition procedure - 003
<input type="checkbox"/>	03.02.2020	Citation in opposition procedure - 004
<input type="checkbox"/>	03.02.2020	Citation in opposition procedure - 005

The EPO website **epo.org** is being revised and improved – feedback welcome.

Another area of positive progress is the **centralised fee payment service**. Several improvements expected: ease of use, support for correct payments (e.g. only annuities to be paid would show up), new functionalities (self-management, reconciliation of invoices, immediate visibility of deposit account payments), more modern technology. Other desirable features have been identified, but these must wait for future "portfolio management" functionality that does not exist now or in the short term.

Double payment control functions have already been implemented by the EPO for most fees (does not work for search fees, which can be paid several times). Legal safeguards are included in case a correct payment was to be rejected (e.g. if someone else paid in error). The system would record the fact that there was an attempt to pay the fee.

4. CMS replacement "Online Filing 2.0" Pilot

Towards the end of April, EPO advertised for volunteers for a pilot of "Online Filing 2.0" system. This is to enable the retirement of the unreliable CMS system in the near term. It does not affect whether this system or something else is chosen as the long term "Front Office" solution.

The pilot is underway and OCC deputy chair David Brophy and a paralegal colleague, as well as myself and hopefully associates of OCC are recently enrolled in the pilot. The number of volunteers is healthy, though we got the impression this week that the volume of applications actually filed is lower than hoped. **Members involved in the pilot should please participate and provide feedback to the EPO, and share their thoughts with OCC also.**

Users emphasised that pilots should not last forever. Training requirements should be considered, and whether the tool will be implemented in the long term, before a firm or department will invest the time to try something

new. Users may have invested work in eOLF and CMS templates and will not be pleased if these cannot be ported to the new system.

5. Existing online filing e-OLF

EPO has confirmed that the established e-OLF system and CMS will be maintained, but not improved. In mid-February I received reports of a problem caused by a change in eOLF. The workaround was quickly devised, confirmed with EPO, and advertised via the website.

6. TOSC working groups – Future online systems

TOSC meetings provide an opportunity to observe and support collaboration between IT specialists of the EPO and national offices (NPO), as well as WIPO and EUIPO colleagues. Several working groups have been established for EPO to collaborate (TOSC working groups) on developments for the timescale of the Strategic Plan 2023 and beyond. The user experience is seen as key by all involved, and **epi** was invited to nominate participants for any of the seven "working groups". Working group **"Front Office"** project aims to develop a platform for use across the member states, sharing infrastructure and/or design. Dr **Ben Grau** of Murgitroyd Munich was nominated and he joined the first workshop on 2 March 2020 in The Hague. OCC member **Florian Stöckle** was recruited for the Working Group **"Search"**.

7. "e-Notification" Mailbox, MyFiles etc.

The EPO would like to increase usage of the **electronic notifications**, replacing paper communications. OCC has in the past explained various factors which prevent various users from adopting the electronic notification wholeheartedly. **David Brophy** and I had an ad hoc meeting with senior staff and key Account Managers. We explained that the reasons (attractions/obstacles) are different for different sizes and types of firms:

- Small users would like the option of a "push" notification, for example by email, when a new item arrives in their mailbox.
- Larger users would like the flexibility to assign cases to different user groups, rather than have every member see everything.
- Notification settings should be adjustable per application, not "all in or none in".
- Users could integrate this function into their case management systems better, if information was received with XML or similar contents, rather than as images of conventional letters.

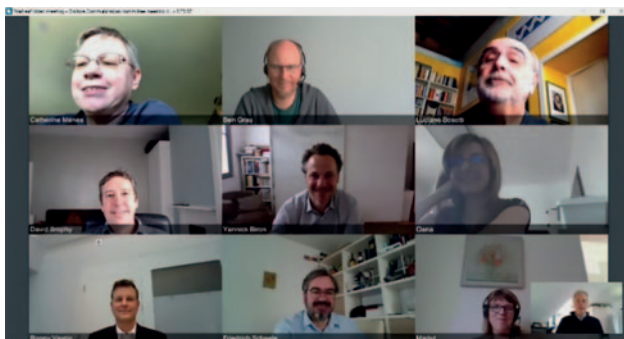
The input was appreciated, although the majority of improvements will need to wait until a next generation of the product, which may be piloted from late in 2021 and not fully operational until 2023 or beyond.

8. Authentication (smart cards etc.)

For the first time at SACEPO-EPP in February 2020 the EPO message shifted clearly from its indefinite adherence to smart cards. Future system designs will explore other modes of authentication.

9. eDrex

On **eDrex**, we learned in SACEPO-EPP that many improvements have already been delivered to examiners, especially in terms of performance. User guidance has been developed based on analysis of publication issues being regularly encountered. (Our impression is **eDrex** nevertheless remains troublesome.) One question is why the legal-binding text should be the marked-up text which the EPO sends with the Rule 71(3) letter, when the authentic text is the clean text when the applicant sends pages to the EPO. EPO has responded with its reasons why it was decided to retain this apparently contradictory situation. Users would like “Microsoft-like track changes”. According to the EPO, this can be envisaged in the context of the future filing solution.



10. Filing formats – DOCX, colour drawings, 3-D drawings etc.

The online filing 2.0 pilot brings with it for the first time the opportunity to understand and apply the EPO’s implementation of **OOXML/DocX filing formats**. Again, this has generated a high level of interest, and there are many long-standing questions that we can try to answer through the pilot. Interest in **colour drawings** is growing and has been implemented unilaterally e.g. by KIPO.

11. Video conference for oral proceedings

With the EPO’s sudden push to switch entirely to **video-conference for oral proceedings**, OCC collaborated with colleagues in the SACEPO Working Party on Rules and the Education Committee. On 5 May 2020, OCC chair and Deputy chair participated as “clients” in the recording of a mock inter partes hearing. The resulting video on the EPO website was viewed 5000 times in one week. A detailed report from the perspective of the **epi** members involved was published on the **epi** website, combining our experiences.

12. OCC for the next 3 years

OCC works on issues that affect our day-to-day working, rather than grand policy. We have excellent members and associates in OCC, and I hope as many of them as possible will stand for election in November. Special mention to our colleague **Luciano Bosotti** who has been in this committee from its very inception, back when “online filing” of patent applications was only a new proposal!!

New volunteers wishing to bring particular skills or experience into membership or associate membership are of course also welcome to stand for election.



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HU – SZENTPÉTERI Zsolt

Next Board and Council Meetings

Board Meetings

112th Board Meeting by videoconference on 16 September 2020

Council Meetings

89th Council meeting by videoconference on 13-14 November 2020

90th Council meeting in Glasgow (GB) on Saturday 8 May 2021 (new date!)

epi Artists Exhibition 2021

The **epi** Artists Exhibition has become a tradition in the cultural life of the **epi** and the EPO. European patent attorneys who apart from their professional job also are artists showing their creative works.

The first **epi** Artists Exhibition was held in 1991 and since then was repeated every three years. As the last exhibition was held in June 2018, the next exhibition is provisionally planned to take place in the course of 2021. In due course, it will be announced in which form the exhibition will take place.

To give an impression, not only paintings are shown but also graphical and fine art works, such as ceramics, sophisticated watches and jewellery as well as artistic textile creations, such as patchwork quilts. A number of the works made by our colleague patent attorney displayed at the exhibitions are shown on the covers of **epi** Information.

This announcement is also an invitation to show to the world that you are not only creative in drafting and defending patents, but that you also have artistic aspirations.

You are cordially invited to register for contributing to the 2021 **epi** Artists Exhibition.

An electronic registration form can be found on the **epi** website:

<https://patentepi.org/r/epi-artists-exhibition-registration>

We hope that the 2021 exhibition will be as attractive and successful as the previous ones.



Disciplinary Bodies, Committees and Audit

Disziplinarorgane, Ausschüsse und Rechnungsprüfung · Organes de discipline, Commissions et Vérification des comptes

Disziplinarrat (epi)	Disciplinary Committee (epi)	Commission de Discipline (epi)
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	FR – QUANTIN Bruno	

Beschwerdekammer in Disziplinarangelegenheiten (EPA/epi)	Disciplinary Board of Appeal (EPO/epi)	Chambre de Recours en Matière Disciplinaire (OEB/epi)
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ES – BERNARDO NORIEGA Francisco	LT – GERASIMOVIC Liudmila	SI – BENCINA Mojca
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GB – WRIGHT Simon Mark**	MK – VESKOVSKA Blagica	

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